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19.926	1512–0214
19.930	1512–0214
19.945	1512–0215
19.980	1512–0215
19.981	1512–0215
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AUTHORITY: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5311, 5552, 5555, 5607, 6065, 7805.

SOURCE: T.D. ATF–199, 50 FR 9162, Mar. 6, 1985, unless otherwise noted.

Subpart A—Scope

§ 20.1 General.

The regulations in this part relate to denatured distilled spirits and cover the procurement, use, disposition, and recovery of denatured alcohol, specially denatured rum, and articles containing denatured spirits.

§ 20.2 Territorial extent.

(a) This part applies to the several States of the United States, the District of Columbia and to denatured spirits and articles coming into the United States from Puerto Rico or the Virgin Islands.

(b) For the purposes of this part, operations in a foreign-trade zone located in any State of the United States or the District of Columbia are regulated in the same manner as operations in any other part of such State or the District of Columbia, with the exception that under this part only domestic denatured spirits may be used in the manufacture of articles in a foreign-trade zone.

(48 Stat. 999, as amended (19 U.S.C. 81c))

[T.D. ATF-274, 53 FR 25156, July 5, 1988]

§ 20.3 Related regulations.

Regulations related to this part are listed below:

16 CFR Chapter I—Federal Trade Commission.

16 CFR Chapter II—Consumer Product Safety Commission.

21 CFR Chapter I—Food and Drug Administration, Department of Health and Human Services.

27 CFR Part 19—Distilled Spirits Plants.

27 CFR Part 21—Formulas for Denatured Alcohol and Rum.

27 CFR Part 170—Miscellaneous Regulations Relating To Liquor.

27 CFR Part 200—Rules of Practice in Permit Proceedings.

27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.

27 CFR Part 251—Importation of Distilled Spirits, Wines and Beer.

31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF-207, 50 FR 23682, June 5, 1985]

Subpart B—Definitions

§ 20.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following terms have the meanings given in this section. Words in the plural form include the singular, and vice versa, and words importing the masculine gender include the feminine. The terms “includes” and “including” do not exclude things not enumerated which are in the same general class.

Alcohol. Those spirits known as ethyl alcohol, ethanol, or spirits of wine, from whatever source or by whatever

process produced; the term does not include such spirits as whisky, brandy, rum, gin, or vodka.

Area supervisor. The supervisory officer of the Bureau of Alcohol, Tobacco and Firearms area office.

Article. Any substance or preparation in the manufacture of which denatured spirits are used, including the product obtained by further manufacture or by combination with other materials, if the article subjected to further manufacture or combination contained denatured spirits.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bulk conveyance. Any tank car, tank truck, tank ship, or tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of denatured spirits or articles.

CFR. The Code of Federal Regulations.

Completely denatured alcohol. Those spirits known as alcohol, as defined in this section, denatured under the completely denatured alcohol formulas prescribed in subpart C of part 21 of this chapter.

Dealer. A person required to hold a permit to deal in specially denatured spirits for resale to persons authorized to purchase or receive specially denatured spirits in accordance with this part. The term does not include a person who only buys and sells specially denatured spirits which that person never physically receives or intends to receive.

Denaturant. Any one of the materials authorized under part 21 of this chapter for addition to spirits in the production of denatured spirits.

Denatured spirits. Alcohol or rum to which denaturants have been added as provided in part 21 of this chapter.

Denaturer. The proprietor of a distilled spirits plant who denatures alcohol or rum under part 19 of this chapter.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC 20226.

Distributor. Any person who sells completely denatured alcohol, other than a proprietor of a distilled spirits plant who sells such alcohol at the plant premises, and any person who sells articles containing completely or specially denatured alcohol or specially denatured rum, other than the manufacturer, except where otherwise specifically restricted in this part.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the claim, form, or other document or, where no form of declaration is prescribed, with the declaration—

I declare under the penalties of perjury that this — (insert type of document, such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

Fiduciary. A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Liter or litre. A metric unit of capacity equal to 1,000 cubic centimeters of alcohol, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. The symbol for milliliter or milliliters is “ml”.

Manufacturer or user. A person who holds a permit to use specially denatured alcohol or specially denatured rum or to recover completely or specially denatured alcohol, specially denatured rum, or articles.

Permit. The document issued under 26 U.S.C. 5271(a), authorizing a person to withdraw and deal in or use specially denatured alcohol or specially denatured rum or to recover denatured alcohol, specially denatured rum, or articles under specified conditions.

Permittee. Any person holding a permit, Form 5150.9, issued under this part to withdraw and deal in or use (including recover) denatured spirits.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Proof. The ethyl alcohol content of a liquid at 60° Fahrenheit, stated as

twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon at 60° Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60° Fahrenheit referred to water at 60° Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietary solvents. Solvents which are manufactured with specially denatured alcohol under the proprietary solvent general-use formula in this part.

Recover. To salvage, after use, specially denatured spirits, completely denatured alcohol without all of its original denaturants, or any article containing denatured spirits, if (1) the original article was made with specially denatured spirits and the salvaged article does not contain all of the original ingredients of the article, or (2) the original article was made with completely denatured alcohol and the salvaged article does not contain all of the original denaturants of the completely denatured alcohol.

Recovered article. An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the original denaturants of the completely denatured alcohol.

Recovered denatured alcohol. Denatured alcohol (except completely denatured alcohol containing all of its original denaturants) which has been recovered.

Recovered denatured rum. Denatured rum which has been recovered.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional director (compliance). The principal ATF regional official responsible for administering regulations in this part.

Restoration. Restoring to the original state (except that the restored material may or may not contain denaturants to the same extent as the original material) of recovered denatured alcohol, recovered specially denatured rum, or recovered articles containing denatured alcohol or specially denatured rum. Restoration includes bringing the alcohol content of the recovered product to 190° of proof or more or

to not less than the original proof if less than 190°. Restoration also includes the removal of foreign materials by any suitable means.

Rum. Any spirits produced from sugar cane products and distilled at less than 190° proof in such manner that the spirits possess the taste, aroma, and characteristics generally attributed to rum.

Secretary. The Secretary of the Treasury or his delegate.

Special industrial solvents. Solvents which are manufactured with specially denatured alcohol under special industrial solvent general-use formula in this part.

Specially denatured alcohol or S.D.A. Those spirits known as alcohol, as defined in this section, denatured under the specially denatured alcohol formulas prescribed in part 21 of this chapter.

Specially denatured rum or S.D.R. Those spirits known as rum, as defined in this section, denatured under the specially denatured rum formula prescribed in part 21 of this chapter.

Specially denatured spirits. Specially denatured alcohol or specially denatured rum.

Spirits or distilled spirits. Alcohol or rum as defined in this part.

Tank truck. A tank-equipped semi-trailer, trailer, or truck, conforming to the requirements of this part.

This chapter. Chapter I, Title 27, Code of Federal Regulations.

U.S.C. The United States Code.

(Approved by the Office of Management and Budget under control number 1512-0336)

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985, as amended by ATF-332, 57 FR 40849, Sept. 8, 1992]

Subpart C—Administrative Provisions

AUTHORITIES

§ 20.21 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part, including bonds, applications, notices, claims, reports, and records. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In

addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF-249, 52 FR 5961, Feb. 27, 1987; T.D. 372, 61 FR 20724, May 8, 1996]

§ 20.22 Alternate methods or procedures; and emergency variations from requirements.

(a) *Alternate methods or procedures—(1) Application.* A permittee, after receiving approval from the Director, may use an alternate method or procedure (including alternate construction or equipment) in lieu of a method or procedure prescribed by this part. A permittee wishing to use an alternate method or procedure may apply to the regional director (compliance). The permittee shall describe the proposed alternate method or procedure and shall set forth the reasons for its use.

(2) *Approval by Director.* The Director may approve the use of an alternate method or procedure if:

(i) The applicant shows good cause for its use;

(ii) It is consistent with the purpose and effect of the procedure prescribed by this part, and provides equal security to the revenue;

(iii) It is not contrary to law; and

(iv) It will not cause an increase in cost to the Government and will not hinder the effective administration of this part.

(3) *Exceptions.* The Director will not authorize an alternate method or procedure relating to the giving of a bond.

(4) *Conditions of approval.* A permittee may not employ an alternate method or procedure until the Director has approved its use. The permittee shall, during the terms of the authorization of an alternate method or procedure, comply with terms of the approved application.

(b) *Emergency variations from requirements—(1) Application.* When an emergency exists, a permittee may apply to the regional director (compliance) for a variation from the requirements of this part relating to construction, equipment, and methods of operation. The

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permittee shall describe the proposed variation and set forth the reasons for using it.

(2) *Approval by regional director (compliance).* The regional director (compliance) may approve an emergency variation from requirements if:

- (i) An emergency exists;
- (ii) The variation from the requirements is necessary;
- (iii) It will afford the same security and protection to the revenue as intended by the specific regulations;
- (iv) It will not hinder the effective administration of this part; and
- (v) It is not contrary to law.

(3) *Conditions of approval.* A permittee may not employ an emergency variation from the requirements until the regional director (compliance) has approved its use. Approval of variations from requirements are conditioned upon compliance with the conditions and limitations set forth in the approval.

(4) *Automatic termination of approval.* If the permittee fails to comply in good faith with the procedures, conditions or limitations set forth in the approval, authority for the variation from requirements is automatically terminated and the permittee is required to comply with prescribed requirements of regulations from which those variations were authorized.

(c) *Withdrawal of approval.* The Director may withdraw approval for an alternate method or procedure, or the regional director (compliance) may withdraw approval for an emergency variation from requirements, approved under paragraph (a) or (b) of this section, if the Director or the regional director (compliance) finds that the revenue is jeopardized or the effective administration of this part is hindered by the approval.

(Approved by the Office of Management and Budget under control number 1512-0336)

(Act of August 16, 1954, Ch. 736, 68A Stat. 917 (26 U.S.C. 7805); sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

§ 20.23 Approval of formulas and statements of process.

The Director is authorized to approve all formulas for articles and statements of process relating to recovery

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operations or other activities required to be submitted on Form 5150.19.

§ 20.24 Allowance of claims.

The regional director (compliance) is authorized to allow claims for losses of specially denatured alcohol or specially denatured rum.

§ 20.25 Permits.

The Director shall issue permits covering the use of specially denatured spirits by the United States or a Governmental agency as provided in § 20.241. The regional director (compliance) shall issue the industrial alcohol user permit, Form 5150.9, required under this part.

[ATF-332, 57 FR 40849, Sept. 8, 1992]

§ 20.26 Bonds and consents of surety.

The regional director (compliance) is authorized to approve all bonds and consents of surety required by this part.

§ 20.27 Right of entry and examination.

An ATF officer may enter, during business hours or at any time operations are being conducted, any premises on which operations governed by this part are conducted to inspect the records and reports required by this part to be kept on those premises. An ATF officer may also inspect and take samples of distilled spirits, denatured alcohol, specially denatured rum or articles (including any substance for use in the manufacture of denatured alcohol, specially denatured rum or articles) to which those records or reports relate.

§ 20.28 Detention of containers.

(a) *Summary detention.* An ATF officer may detain any container containing, or supposed to contain, spirits (including denatured spirits and articles), when the ATF officer believes those spirits, denatured spirits, or articles were produced, withdrawn, sold, transported, or used in violation of law or this part. The ATF officer shall hold the container at a safe place until it is determined if the detained property is liable by law to forfeiture.

(b) *Limitations.* Summary detention may not exceed 72 hours without process of law or intervention of the regional director (compliance). The person possessing the container immediately before its detention may prepare a waiver of the 72 hours limitation to have the container kept on his or her premises during detention.

(Sec. 201, Pub. L. 85-859, Stat. 1375, as amended (26 U.S.C. 5311))

LIABILITY FOR TAX

§20.31 Applicable laws and regulations; persons liable for tax.

(a) All laws and regulations regarding alcohol or rum that is not denatured, including those requiring payment of the distilled spirits tax, apply to completely denatured alcohol, specially denatured alcohol, specially denatured rum, or articles produced, withdrawn, sold, transported, or used in violation of laws or regulations pertaining to those substances.

(b) Any person who produces, withdraws, sells, transports, or uses completely denatured alcohol, specially denatured alcohol, specially denatured rum, or articles in violation of laws or regulations shall be required to pay the distilled spirits tax on those substances.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

MARKS AND BRANDS

§20.33 Time of destruction of marks and brands.

(a) Any person who empties a package containing denatured alcohol, specially denatured rum, or articles made from denatured alcohol or specially denatured rum shall immediately destroy or obliterate the marks, brands, and labels required by this chapter to be placed on packages containing those materials.

(b) A person may not destroy or obliterate the marks, brands or labels until the package or drum has been emptied.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358, as amended (26 U.S.C. 5206))

DOCUMENT REQUIREMENTS

§20.36 Execution under penalties of perjury.

(a) When any form or document prescribed by this part is required to be executed under penalties of perjury, the dealer or user or other authorized person shall:

(1) Insert the declaration "I declare under the penalties of perjury that I have examined this _____ (insert the type of document such as claim, application, statement, report, certificate), including all supporting documents, and to the best of my knowledge and belief, it is true, correct, and complete"; and

(2) Sign the document.

(b) When the required document already bears a perjury declaration, the dealer or user or other authorized person shall sign the document.

(26 U.S.C. 6065)

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF-332, 57 FR 40849, Sept. 8, 1992]

§20.37 Filing of qualifying documents.

All documents returned to a permittee or other person as evidence of compliance with requirements of this part, or as authorization, shall except as otherwise provided, be kept readily available for inspection by an ATF officer during business hours.

Subpart Ca—Special (Occupational) Taxes

SOURCE: T.D. ATF-271, 53 FR 17544, May 17, 1988, unless otherwise noted.

§20.38 Liability for special tax.

(a) *Industrial alcohol permittee.* Except as otherwise provided in this section, every person required to hold a permit under 26 U.S.C. 5271 to procure, use, sell, and/or recover denatured distilled spirits for industrial purposes shall pay a special (occupational) tax at the rate of \$250 per year. A separate tax shall be paid for each industrial alcohol permit which the permittee holds, and permits issued under this part shall not be valid unless special tax is paid. The tax shall be paid on or before the date of commencing business as an industrial

alcohol permittee, and thereafter every year on or before July 1. On commencing business, the tax shall be computed from the first day of the month in which liability is incurred, through the following June 30. Thereafter, the tax shall be computed for the entire year (July 1 through June 30).

(b) *Transition rule.* For purposes of paragraph (a) of this section, a permittee engaged in denatured distilled spirits operations on January 1, 1988, shall be treated as having commenced business on that date. The special tax imposed by this transition rule shall cover the period January 1, 1988, through June 30, 1988, and shall be paid on or before April 1, 1988.

(c) *Each place of business taxable.* Special (occupational) tax liability is incurred at each place of business for which a permit under subpart D of this part to procure, use, sell, and/or recover denatured distilled spirits has been issued. A place of business means the entire office, plant or area of the business in any one location under the same proprietorship. Passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises are not sufficient separation to require additional special tax, if the divisions of the premises are otherwise contiguous.

(d) *Exception for United States.* Agencies and instrumentalities of the United States are not required to pay special tax under this subpart.

(e) *Exemption for certain educational institutions (effective July 1, 1989).* (1) On and after July 1, 1989, a scientific university, college of learning, or institution of scientific research, which holds a permit to procure and use specially denatured spirits under this part, is exempt from payment of special tax under this subpart if—

(i) The university, college, or institution procures less than 25 gallons of specially denatured spirits per calendar year; and

(ii) Such spirits are procured for use exclusively for experimental or research use and not for consumption (other than organoleptic tests) or sale.

(2) A scientific university, college of learning, or institution of scientific research, which holds a permit under this part, and which does not operate as de-

scribed in paragraphs (e)(1)(i) and (ii) of this section during any calendar year, shall pay special tax as provided in § 20.38(a) for the special tax year (July 1 through June 30) commencing during that calendar year.

(26 U.S.C. 5143, 5276)

[T.D. ATF-271, 53 FR 17544, May 17, 1988, as amended by T.D. ATF-285, 54 FR 12610, Mar. 28, 1989]

§ 20.38a Special tax returns.

(a) *General.* Special tax shall be paid by return. The prescribed return is ATF Form 5630.5, Special Tax Registration and Return. Special tax returns, with payment of tax, shall be filed with ATF in accordance with instructions on the form.

(b) *Preparation of ATF Form 5630.5.* All of the information called for on Form 5630.5 shall be provided, including:

(1) The true name of the taxpayer.

(2) The trade name(s) (if any) of the business(es) subject to special tax.

(3) The employer identification number (see § 20.39).

(4) The exact location of the place of business, by name and number of building or street, or if these do not exist, by some description in addition to the post office address. In the case of one return for two or more locations, the address to be shown shall be the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer).

(5) The class(es) of special tax to which the taxpayer is subject.

(6) Ownership and control information: That is, the name, position, and residence address of every owner of the business and of every person having power to control its management and policies with respect to the activity subject to special tax. "Owner of the business" shall include every partner, if the taxpayer is a partnership, and every person owning 10 percent of more of its stock, if the taxpayer is a corporation. However, the ownership and control information required by this paragraph need not be stated if the same information has been previously provided to ATF in connection with a permit application, and if the information previously provided is still current.

(c) *Multiple locations and/or classes of tax.* A taxpayer subject to special tax for the same period at more than one location or for more than one class of tax shall—

(1) File one special tax return, ATF Form 5630.5, with payment of tax, to cover all such locations and classes of tax; and

(2) Prepare, in duplicate, a list identified with the taxpayer's name, address (as shown on ATF Form 5630.5), employer identification number, and period covered by the return. The list shall show, by States, the name, address, and tax class of each location for which special tax is being paid. The original of the list shall be filed with ATF in accordance with instructions on the return, and the copy shall be retained at the taxpayer's principal place of business (or principal office, in the case of a corporate taxpayer) for the period specified in § 20.267.

(d) *Signing of ATF Forms 5630.5—(1) Ordinary returns.* The return of an individual proprietor shall be signed by the individual. The return of a partnership shall be signed by a general partner. The return of a corporation shall be signed by any officer. In each case, the person signing the return shall designate his or her capacity as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer.

(2) *Fiduciaries.* Receivers, trustees, assignees, executors administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., shall indicate the fiduciary capacity in which they act.

(3) *Agent or attorney in fact.* If a return is signed by an agent or attorney in fact, the signature shall be preceded by the name of the principal and followed by the title of the agent or attorney in fact. A return signed by a person as agent will not be accepted unless there is filed, with the ATF office with which the return is required to be filed, a power of attorney authorizing the agent to perform the act.

(4) *Perjury statement.* ATF Forms 5630.5 shall contain or be verified by a written declaration that the return has been executed under the penalties of perjury.

(26 U.S.C. 5142, 6061, 6065, 6151, 7011)

§ 20.39 Employer identification number.

(a) *Requirement.* The employer identification number (defined in 26 CFR 301.7701-12) of the taxpayer who has been assigned such a number shall be shown on each special tax return, including amended returns, filed under this subpart. Failure of the taxpayer to include the employer identification number may result in the imposition of the penalty specified in § 70.105 of this chapter.

(b) *Application for employer identification number.* Each taxpayer who files a special tax return, who has not already been assigned an employer identification number, shall file IRS Form SS-4 to apply for one. The taxpayer shall apply for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a special tax return. The employer identification number shall be applied for no later than 7 days after the filing of the taxpayer's first special tax return. IRS Form SS-4 may be obtained from the director of an IRS service center or from any IRS district director.

(c) *Preparation and filing of IRS Form SS-4.* The taxpayer shall prepare and file IRS Form SS-4, together with any supplementary statement, in accordance with the instructions on the form or issued in respect to it.

(26 U.S.C. 6109)

SPECIAL TAX STAMPS

§ 20.40 Issuance, distribution, and examination of special tax stamps.

(a) *Issuance of special tax stamps.* Upon filing a properly executed return on ATF Form 5630.5 together with the full remittance, the taxpayer will be issued an appropriately designated special tax stamp. If the return covers multiple locations, the taxpayer will be issued one appropriately designated stamp for each location listed on the attachment required by § 20.38a(c)(2), but showing, as to name and address, only the name of the taxpayer and the address of the taxpayer's principal place of business

(or principal office in the case of a corporate taxpayer).

(b) *Distribution of special tax stamps for multiple locations.* On receipt of the special tax stamps, the taxpayer shall verify that there is one stamp for each location listed on the attachment to ATF Form 5630.5. The taxpayer shall designate one stamp for each location and shall type on each stamp the address of the business conducted at the location for which that stamp is designated. The taxpayer shall then forward each stamp to the place of business designated on the stamp.

(c) *Examination of special tax stamps.* All stamps denoting payment of special tax shall be kept available for inspection by ATF officers, at the location for which designated, during business hours.

(26 U.S.C. 5143, 5146, 6806)

§ 20.40a Changes in special tax stamps.

(a) *Change in name.* If there is a change in the corporate or firm name, or in the trade name, as shown on ATF Form 5630.5, the permittee shall file an amended special tax return, as soon as practicable after the change, covering the new corporate or firm name, or trade names. No new special tax is required to be paid. The permittee shall attach the special tax stamp for endorsement of the change in name.

(b) *Change in proprietorship—(1) General.* If there is a change in the proprietorship of an industrial alcohol operation, the successor shall pay a new special tax and obtain the required special tax stamps.

(2) *Exemption for certain successors.* Persons having the right of succession provided for in paragraph (c) of this section may carry on the business for the remainder of the period for which the special tax was paid, without paying a new special tax, if within 30 days after the date on which the successor begins to carry on the business, the successor files a special tax return on ATF Form 5630.5 with ATF, which shows the basis of succession. A person who is a successor to a business for which special tax has been paid and who fails to register the succession is liable for special tax computed from the first day of the calendar month in

which he or she began to carry on the business.

(c) *Persons having right of succession.* Under the conditions indicated in paragraph (b)(2) of this section, the right of succession will pass to certain persons in the following cases:

(1) *Death.* The widowed spouse or child, or executor, administrator, or other legal representative of the taxpayer;

(2) *Succession of spouse.* A husband or wife succeeding to the business of his or her spouse (living);

(3) *Insolvency.* A receiver or trustee in bankruptcy, or an assignee for benefit of creditors;

(4) *Withdrawal from firm.* The partner or partners remaining after death or withdrawal of a member.

(d) *Change in location.* If there is a change in location of a taxable place of business, the proprietor shall, within 30 days after the change, file with ATF an amended special tax return covering the new location. The proprietor shall attach the special tax stamp or stamps, for endorsement of the change in location. No new special tax is required to be paid. However, if the proprietor does not file the amended return within 30 days, the proprietor is required to pay a new special tax and obtain a new special tax stamp.

(26 U.S.C. 5143, 7011)

Subpart D—Qualification of Dealers and Users

APPLICATION FOR PERMIT, FORM 5150.22

§ 20.41 Application for industrial alcohol user permit.

(a) *Dealers.* A person who desires to withdraw and deal in specially denatured spirits shall, before commencing business, file an application on Form 5150.22 for, and obtain a permit, Form 5150.9.

(b) *Users.* A person who desires to withdraw and use or recover specially denatured spirits shall, before commencing business, file an application on Form 5150.22 for, and obtain a permit, Form 5150.9. The provisions of this paragraph also apply to persons desiring to recover denatured spirits from articles.

(c) *Filing.* All applications and necessary supporting documents, as required by this subpart, shall be filed with the regional director (compliance). All data, written statements, certifications, affidavits, and other documents submitted in support of the application are considered a part of the application.

(1) Applications filed as provided in this section, shall be accompanied by evidence establishing the authority of the officer or other person to execute the application.

(2) A State, political subdivision thereof, or the District of Columbia, may specify in the application that it desires a single permit authorizing the withdrawal and use of specially denatured spirits in a number of institutions under its control. In this instance, the application, Form 5150.22, or an attachment, shall clearly show the method of distributing and accounting for the specially denatured spirits to be withdrawn.

(d) *Exceptions.* (1) The proprietor of a distilled spirits plant qualified under part 19 of this chapter, who sells specially denatured spirits stored at the plant premises is not required to qualify as a dealer under this part.

(2) A permittee who was previously qualified on the effective date of this regulation shall not be required to requalify under this part.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

§ 20.42 Data for application, Form 5150.22.

(a) Unless waived under § 20.43, each application on Form 5150.22 shall include as applicable, the following information:

(1) Serial number and purpose for which filed.

(2) Name and principal business address.

(3) Based on the bona fide requirements of the applicant, the estimated quantity of all formulations of specially denatured spirits, in gallons, which will be procured during a 12-month period.

(4) Location, or locations where specially denatured spirits will be sold or used if different from the business address.

(5) Statement that specially denatured spirits will be stored in accordance with the requirements of this part.

(6) For user applications, statement as to the intended use (e.g. cosmetics, external medicines, solvents, fuels, mouthwashes, laboratory uses, inks, etc.) to be made of the specially denatured spirits, and whether recovery, restoration, and redensaturation processes will be used.

(7) Statement as to the type of business organization and of the persons interested in the business, supported by the items of information listed in § 20.45.

(8) Listing of the principal equipment to be used in recovery processes, including processing tanks, storage tanks, and equipment for recovery, restoration, and redensaturation of denatured spirits (including the serial number, kind, capacity, names and addresses of manufacturer and owner of distilling apparatus along with intended use).

(9) List of trade names under which the applicant will conduct operations, and the offices where these names are registered.

(10) Listing of the titles of offices, the incumbents of which are responsible for the specially denatured spirits activities of the business and are authorized by the articles of incorporation, the bylaws, or the board of directors to act and sign on behalf of the applicant.

(11) Other information and statements as the regional director (compliance) may require to establish that the applicant is entitled to the permit. In the case of a corporation or other legal entity, the regional director (compliance) may require information which establishes that the officers, directors and principal stockholders whose names are required to be furnished under § 20.45 (a)(2) and (c) have not violated or conspired to violate any law of the United States relating to intoxicating liquor or have been convicted of any offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense.

(b) If any of the information required by paragraphs (a)(4) through (a)(10) and any information which may be required

under paragraph (a)(11) of this section is on file with any regional director (compliance), the applicant may incorporate this information by reference by stating that the information is made a part of the application.

§ 20.43 Exceptions to application requirements.

(a) The regional director (compliance) may waive detailed application and supporting data requirements, other than the requirements of paragraphs (a)(1) through (a)(6) and (a)(9) of § 20.42, and paragraph (a)(8) of that section as it relates to recovery, restoration and redistillation, in the case of—

(1) All applications, Form 5150.22, filed by States or political subdivisions thereof or the District of Columbia, and

(2) Applications, Form 5150.22, filed by applicants whose annual withdrawal and sale or use of specially denatured spirits does not exceed 5,000 gallons.

(b) The waiver, provided for in this section will terminate when the permittee, other than a State or a political subdivision thereof, or the District of Columbia, files an application to amend its permit, Form 5150.9, to increase the annual withdrawal and sale or use of specially denatured spirits to an amount in excess of 5,000 gallons. In this case, the permittee shall also furnish information required by § 20.56(a)(2).

§ 20.44 Disapproval of application.

The regional director (compliance) may, in accordance with part 200 of this chapter, disapprove an application for a permit to withdraw and deal or use denatured spirits, if on examination of the application (or inquiry), the regional director (compliance) has reason to believe that:

(a) The applicant is not authorized by law and regulations to withdraw and deal in or use specially denatured spirits;

(b) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, or, in the case of a partnership, a partner) is, by reason of their business experience, financial standing, or trade connections, not likely to maintain operations in compliance with 26 U.S.C.

Chapter 51, or regulations issued under this part;

(c) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with the application; or

(d) The premises at which the applicant proposes to conduct the business are not adequate to protect the revenue.

§ 20.45 Organizational documents.

The supporting information required by § 20.42(a)(7) includes, as applicable:

(a) *Corporate documents.* (1) Certified true copy of the certificate of incorporation, or certified true copy of certificate authorizing the corporation to operate in the State where the premises are located (if other than that in which incorporated);

(2) Certified list of names and addresses of officers and directors, along with a statement designating which corporate offices, if applicable, are directly responsible for the specially denatured spirits portion of the business; and

(3) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and outstanding, the par value, and the voting rights of the respective owners or holders.

(b) *Articles of partnership.* True copy of the articles of partnership or association, if any, or certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of persons owning 10% or more of each of the classes of stock in the corporation, or legal entity, and the nature and amount of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him or her. If a corporation is wholly owned or controlled by another corporation, persons owning 10% or more of each of the classes of stock of the parent corporation are considered to be the persons interested in the business of the subsidiary, and the names and addresses of such persons shall be submitted to the

regional director (compliance) if specifically requested.

(2) In the case of an individual owner or partnership, name and address of every person interested in the business, whether such interest appears in the name of the interested party or in the name of another for the interested person.

INDUSTRIAL ALCOHOL USER PERMIT,
ATF F 5150.9

§20.48 Conditions of permits.

(a) Permits to withdraw and deal in or use specially denatured spirits will designate the acts which are permitted, and include any limitations imposed on the performance of these acts. All of the provisions of this part relating to the use, recovery, restoration or redistillation of denatured spirits or articles are considered to be included in the provisions and conditions of the permit, the same as if set out in the permit.

(b) An applicant need not have formulas and statements of processes, approved by the Director, prior to the issuance of a permit by the regional director (compliance).

(c) A permittee shall not use specially denatured spirits in the manufacture or production of any article unless the Director has approved the formula on Form 5150.19 or the article is covered by an approved general-use formula.

§20.49 Duration of permits.

Permits to withdraw and deal in or use specially denatured spirits are continuing unless automatically terminated by the terms thereof, suspended or revoked as provided in §20.51, or voluntarily surrendered. The provisions of §20.57 are considered part of the terms and conditions of all permits.

§20.50 Correction of permits.

If an error on a permit is discovered, the permittee shall immediately return the permit to the regional director (compliance) for correction.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

§20.51 Suspension or revocation of permits.

The regional director (compliance) may institute proceedings under part 200 of this chapter to suspend or revoke a permit whenever the regional director (compliance) has reason to believe that the permittee:

(a) Has not in good faith complied with the provisions of 26 U.S.C. Chapter 51, or regulations issued under that chapter;

(b) Has violated the conditions of that permit;

(c) Has made any false statements as to any material fact in the application for the permit;

(d) Has failed to disclose any material information required to be furnished;

(e) Has violated or conspired to violate any law of the United States relating to intoxicating liquor or has been convicted of an offense under Title 26, U.S.C., punishable as a felony or of any conspiracy to commit such offense;

(f) Is, by reason of its operations, no longer warranted in procuring and dealing in or using specially denatured spirits authorized by the permit; or

(g) Has not engaged in any of the operations authorized by the permit for a period of more than 2 years.

§20.52 Rules of practice in permit proceedings.

The regulations of part 200 of this chapter apply to the procedure and practice in connection with the disapproval of any application for a permit and in connection with suspension or revocation of a permit.

§20.53 Powers of attorney.

An applicant or permittee shall execute and file with the regional director (compliance) a Form 1534, in accordance with the instructions on the form, for each person authorized to sign or to act on behalf of the applicant or permittee. Form 1534 is not required for a person whose authority is furnished in accordance with §20.42(a)(10).

§20.54 Photocopying of permits.

A permittee may make photocopies of its permit exclusively for the purpose of furnishing proof of authorization to withdraw specially denatured

spirits from a distilled spirits plant and other persons authorized under this part to deal in specially denatured spirits.

§ 20.55 Posting of permits.

Permits issued under this part shall be kept posted and available for inspection on the permit premises.

CHANGES AFTER ORIGINAL QUALIFICATION

§ 20.56 Changes affecting applications and permits.

(a) *General*—(1) *Changes affecting application*. When there is a change relating to any of the information contained in, or considered a part of the application on Form 5150.22 for a permit, the permittee shall, within 30 days (except as otherwise provided in this subpart) file a written notice with the regional director (compliance) to amend the application. However, a change in the information required by § 20.42(a)(6) caused by approval of a new formula or statement of process shall not require filing a new application unless the approval is the permittee's first statement of process covering recovery operations.

(2) *Changes affecting waivers*. When any waiver under § 20.43 is terminated by a change to the application, the permittee shall include the current information as to the item previously waived with the written notice required in paragraph (a)(1) of this section.

(3) *Changes affecting permit*. When the terms of a permit are affected by a change, the written notice required by paragraph (a)(1) of this section (except as otherwise provided in this subpart) will serve as an application to amend the permit.

(4) *Form of notice*. A written notice to amend an application on Form 5150.22 shall—

- (i) Identify the permittee;
- (ii) Contain the permit identification number;
- (iii) Explain the nature of the change and contain any required supporting documents;
- (iv) Identify the serial number of the applicable application, Form 5150.22; and

(v) Be consecutively numbered and signed by the permittee or any person authorized to sign on behalf of the permittee.

(b) *Amended application*. The regional director (compliance) may require a permittee to file an amended application on Form 5150.22 when the number of changes to the previous application are determined to be excessive, or when a permittee has not timely filed the written notice prescribed in paragraph (a)(1) of this section. If items on the amended application remain unchanged, they will be marked "No change since Form 5150.22, Serial No. _____."

(c) *Changes in officers, directors and stockholders*—(1) *Officers*. In the case of a change in the officers listed under the provisions of § 20.45(a)(2), the notice required by paragraph (a)(1) of this section shall only apply (unless otherwise required, in writing, by the regional director (compliance)) to those offices, the incumbents of which are responsible for the operations covered by this part.

(2) *Directors*. In the case of a change in the directors listed under the provisions of § 20.45(a)(2), the notice required by paragraph (a)(1) of this section shall reflect the changes.

(3) *Stockholders*. In lieu of reporting all changes, within 30 days, to the list of stockholders furnished under the provisions of § 20.45(c)(1), a permittee may, upon filing written notice to the regional director (compliance) and establishing a reporting date, file an annual notice of changes. The notice of changes in stockholders does not apply if the sale or transfer of capital stock results in a change in ownership or control which is required to be reported under § 20.57.

(Approved by the Office of Management and Budget under control number 1512–0336)

§ 20.57 Automatic termination of permits.

(a) *Permit not transferable*. Permits issued under this part are not transferable. In the event of the lease, sale, or other transfer of such a permit, or of the operations authorized by the permit, the permit shall, except as provided for in this section, automatically terminate.

(b) *Corporations.* (1) If actual or legal control of any corporation holding a permit issued under this part changes, directly or indirectly, whether by reason of a change in stock ownership or control (in the permittee corporation or any other corporation), by operation of law, or in any other manner, the permittee shall, within 10 days of the change, give written notice to the regional director (compliance). Within 30 days of the change, the permittee shall file an application for a new permit, Form 5150.22 with supporting documents. If an application for a new permit is not filed on Form 5150.22 within 30 days of the change, the outstanding permit will automatically terminate.

(2) If an application for a new permit is filed on Form 5150.22 within the 30-day period prescribed in paragraph (b)(1) of this section, the outstanding permit may remain in effect until final action is taken on the application. When final action is taken, the outstanding permit will automatically terminate and shall be forwarded to the regional director (compliance).

(c) *Proprietorships.* In the event of a change in proprietorship of a business of a permittee (as for instance, by reasons of incorporation, the withdrawal or taking in of additional partners, or succession by any person who is not a fiduciary), the successor shall file written notice and make application on Form 5150.22 for a new permit, under the same conditions provided for in paragraph (b) of this section. The successor may adopt the formulas and statements of process of the predecessor.

(Approved by the Office of Management and Budget under control number 1512-0336)

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

§20.58 Adoption of documents by a fiduciary.

If the business covered by a permit issued under this part, is to be operated by a fiduciary, the fiduciary may, in lieu of qualifying as a new proprietor, file a written notice, and any necessary supporting documents, to amend the predecessor's permit. The fiduciary shall furnish a consent of surety on Form 1533, extending the terms of the

predecessor's bond, if any, and may adopt the formulas and statements of process of the predecessor. The effective date of the qualifying documents filed by a fiduciary shall coincide with the effective date of the court order or the date specified therein for the fiduciary to assume control. If the fiduciary was not appointed by the court, the date the fiduciary assumed control shall coincide with the effective date of the filing of the qualifying documents.

§20.59 Continuing partnerships.

(a) *General.* If, under the laws of a particular State, a partnership is not terminated on death or insolvency of a partner, but continues until final settlement of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to withdraw and use specially denatured spirits under the prior qualifications of the partnership.

(b) *Bonds.* If a bond was required under the previous partnership, the surviving partner shall furnish a consent of surety, in which the surety and surviving partner agree to remain liable.

(c) *Requalification.* If a surviving partner acquires the business on completion of the settlement of the partnership, that partner shall qualify as a new proprietor, from the date of acquisition, under the same conditions and limitations prescribed in §20.57(c).

(d) *More than one partner.* The rule set forth in this section also applies if there is more than one surviving partner.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

§20.60 Change in name of permittee.

When the only change is a change in the individual, firm, or corporation name, a permittee may not conduct operations under the new name until a written notice, accompanied by necessary supporting documents, to amend the application and permit has been

§ 20.61

filed and an amended permit issued by the regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512-0336)

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

§ 20.61 Change in trade name.

If there is to be a change in, or addition of, a trade name, the permittee may not conduct operations under the new trade name until a written notice has been filed and an amended permit has been issued by the regional director (compliance). A new bond or consent of surety is not required for changes in trade names.

(Approved by the Office of Management and Budget under control number 1512-0336)

§ 20.62 Change in location.

(a) *Permit.* When there is to be a change in location within the same region, a permittee may not conduct operations at the new location until a written notice, accompanied by necessary supporting information to amend the application and permit has been filed and an amended permit issued by the regional director (compliance).

(b) *Bond.* If required to file a bond, the permittee shall furnish a consent of surety on Form 1533 or a new bond to cover the new location.

(Approved by the Office of Management and Budget under control number 1512-0336)

§ 20.63 Adoption of formulas and statements of process.

(a) The adoption by a successor (proprietorship or fiduciary) of a predecessor's formulas and statements of process as provided in § 20.57(c), and § 20.58, will be in the form of a certificate submitted to the regional director (compliance).

(b) The certificate will contain, as applicable, (1) a list of all approved formulas or statements of process in which specially denatured spirits are used or recovered, (2) the formulas of specially denatured spirits used, (3) the ATF laboratory number of the sample (if any), (4) the date of approval of Form 1479-A or serial number of Form 5150.19, and (5) the applicable code number for the article or process. In

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addition, the certificate will contain the name of the successor followed by the phrase "Formula of _____ (Name of predecessor) is hereby adopted."

(Approved by the Office of Management and Budget under control number 1512-0336)

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985, as amended by ATF-332, 57 FR 40849, Sept. 8, 1992]

§ 20.64 Return of permits.

Following the issuance of a new or amended permit, the permittee shall (a) obtain and destroy all photocopies of the previous permit from its suppliers, and (b) return the original of the previous permit to the regional director (compliance).

REGISTRY OF STILLS

§ 20.66 Registry of stills.

The provisions of subpart C of part 170 of this chapter are applicable to stills or distilling apparatus located on the premises of a permittee used for distilling. As provided under § 170.55, the listing of a still in the permit application (Form 5150.22), and approval of the application, constitutes registration of the still.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended (26 U.S.C. 5179))

[T.D. ATF-207, 50 FR 23682, June 5, 1985]

PERMANENT DISCONTINUANCE OF BUSINESS

§ 20.68 Notice of permanent discontinuance.

(a) *Notice.* When a permittee permanently discontinues business, a written notice shall be filed with the regional director (compliance) to cover the discontinuance. The notice will be accompanied by the permit, and contain—

(1) A request to cancel the permit,

(2) A statement of the disposition made of all specially denatured spirits, as required in § 20.234, and

(3) The date of discontinuance.

(b) *Bonds.* The bond of a permittee may not be canceled until all specially denatured spirits have been properly disposed of as required by this part.

(c) *Final Reports.* The written notice required by this paragraph will also be accompanied by a report on Form

5150.18 covering the discontinuance and marked "Final Report."

(Approved by the Office of Management and Budget under control number 1512-0336)

Subpart E—Bonds and Consents of Surety

§ 20.71 Bond.

(a) Except as provided in paragraph (d) of this section, each permittee who intends to withdraw more than 5000 gallons of specially denatured spirits per annum shall file a bond, Form 5150.25, before issuance of the permit. The penal sum of the bond shall be as follows:

Maximum annual withdrawals	Bond penal sum
0 to 5,000 gallons	No bond required.
Over 5,000 but not over 500,000 gallons.	\$2,000 plus \$1,000 for each 5,000 gallons of withdrawals over 10,000 gallons.
Over 500,000 gallons	\$100,000.

(b) The following method may be used to compute your penal sum:

(1) If the total of your estimated annual withdrawals is divisible by 5,000, divide it by 5. The result is your penal sum in dollars.

(2) If the total of your estimated annual withdrawals is not divisible by 5,000, increase it to the next highest number which is divisible by 5,000 and divide that number by 5. The result is your penal sum in dollars.

(c) The following are some examples:

If your annual withdrawals are	Your penal sum is
25,000 gallons	\$5,000
84,500 gallons	17,000
335,000 gallons	67,000

(d) Any bond previously approved on Form 1475 or 1480 which fulfills the penal sum requirements of paragraph (b) of this section shall remain valid and will be regulated by the same provisions of this subpart as it refers to bonds on ATF F 5150.25. No bond is required if the permittee is a State, any political subdivision of a State, or the District of Columbia.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by 50 FR 20099, May 14, 1985]

§ 20.72 Evaluation of bond penal sum.

(a) *Permittee's evaluation.* Each permittee shall, for the period from July 1 through the following June 30, make an annual evaluation of the permittee's previous and future needs for specially denatured spirits. Based on the results of this evaluation:

(1) The permittee shall file a new bond in increased penal sum, if the existing bond no longer meets the penal sum requirements of § 20.71, or

(2) The permittee may file a new bond in decreased penal sum, if the existing bond exceeds the penal sum requirements of § 20.71.

(b) *Authority of regional director (compliance).* The regional director (compliance) may, at any time, require a permittee to file a new bond in a larger penal sum, or require a satisfactory explanation why a new bond should not be filed.

§ 20.73 Corporate surety.

(a) Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary in the current revision of Treasury Department Circular No. 570.

(b) Treasury Department Circular No. 570 is published in the FEDERAL REGISTER annually as of the first workday in July. As they occur, interim revisions of the circular are published in the FEDERAL REGISTER. Copies may be obtained from the Surety Bond Branch, Financial Management Service, Department of the Treasury, Washington, DC 20226.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

§ 20.74 Filing of powers of attorney.

Each bond, and each consent to changes in the terms of a bond, must be accompanied by a power of attorney authorizing the agent or officer who executed the bond or consent to act on behalf of the surety. The regional director (compliance) who is authorized to approve the bond may require additional evidence of the authority of the agent or officer to execute the bond or consent.

§20.75 Execution of powers of attorney.

The power of attorney shall be prepared on a form provided by the surety company and executed under the corporate seal of the company. If the power of attorney submitted is not a manually signed original, it shall be accompanied by certification of its validity.

§20.76 Deposit of securities instead of corporate surety.

Instead of corporate surety, the principal may pledge and deposit as surety for the bond, securities which are transferable and which are guaranteed as to both interest and principal by the United States, under the provisions of 31 CFR part 225.

§20.77 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

§20.78 Strengthening bonds.

(a) When the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. A strengthening bond will not be approved if it bears any notation which is intended or which may be considered:

- (1) To be a release of any former bond, or
- (2) As limiting the amount of any bond to less than its full penal sum.

(b) Strengthening bonds shall show the date of execution and the effective date, and shall be marked "Strengthening Bond."

§20.79 Superseding bonds.

Superseding bonds are required when insolvency or removal of any surety occurs. Superseding bonds may also be required at the discretion of the regional director (compliance) when any other contingency affects the validity or impairs the sufficiency of the bond. If the principal intends to continue the transactions to which the bond relates after the surety, under §20.80, has ap-

plied for relief of liability under the bond, the principal shall file a valid superseding bond to be effective on or before the date specified in the surety's application for relief of liability. Superseding bonds shall show the date of execution and the effective date, and shall be marked "Superseding Bond." If the principal does not file a superseding bond when required, the principal may not conduct any operation under the permit.

§20.80 Notice by surety of termination of bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and regional director (compliance) with whom the bond is filed, that the surety desires (after a specified date) to be relieved of liability under the bond. The specified date may not be less than 90 days after the date the notice is received by the regional director (compliance). The surety shall also file with the regional director (compliance) an acknowledgment or other proof of service of the notice of termination on the principal.

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§20.81 Termination of rights and liability under a bond.

(a) If the notice of termination given by the surety is not withdrawn, in writing, the rights of the principal as supported by the bond terminate on the date named in the notice. The surety is relieved from liability under a bond as to any operations which are wholly subsequent to:

- (1) The date named in a notice of termination (§20.80); or
- (2) The effective date of a superseding bond (§20.79); or
- (3) The date of approval of the discontinuance of operations by the principal.

(b) If the principal fails to file a valid superseding bond before the date on which the surety desires to be relieved from liability under the bond, the surety, notwithstanding the release from liability as specified in paragraph (a)(1) of this section, shall remain liable under the bond for all specially denatured spirits or articles on hand or in transit to the principal on that date

until the spirits or articles have been lawfully disposed of or a new bond has been filed by the principal.

§20.82 Release of pledged securities.

Securities of the United States, pledged and deposited as provided in §20.76, will be released only under the provisions of 31 CFR part 225. When the regional director (compliance) is satisfied that they may be released, the regional director (compliance) shall fix the date or dates on which a part or all of the securities may be released. At any time before the release of the securities, the regional director (compliance) may extend the date of release for any additional length of time considered necessary.

Subpart F—Formulas and Statements of Process

§20.91 Formula.

(a) Each article made with specially denatured spirits shall be made in accordance with (1) an approved formula, Form 5150.19, or (2) an approved general-use formula prescribed in this subpart, approved by the Director as an alternate method, or published as an ATF Ruling in the ATF Bulletin. The manufacturer shall file Form 5150.19, along with the sample(s) required by §20.92, and obtain an approved formula before manufacturing the article.

(b) An article made in accordance with a formula on Form 1479-A approved under previous regulations in part 211 of this chapter will be considered to comply with the requirements of this subpart.

(c) Any person who has approved formulas or statements of process, Form 1479-A or Form 5150.19, which have been discontinued or have become obsolete, may submit these formulas or statements of process to the Director for cancellation.

§20.92 Samples.

(a) For each formula submitted in accordance with §20.91 covering a toilet preparation made with S.D.A. Formula No. 39-C and containing an essential oil, the manufacturer shall submit a 0.5-ounce sample of the essential oil used in the article. The Director may also require the manufacturer to sub-

mit a sample of any ingredient which is not adequately described in the formula.

(b) For each formula submitted in accordance with §20.91, the Director may require the manufacturer to submit a 4-ounce sample of the finished article.

(c) The regional director (compliance) or the Director may, at any time, require submission of samples of (1) any ingredient used in the manufacture of an article, or (2) any article.

§20.93 Changes to formulas.

(a) *General.* Except as provided in paragraph (b) of this section, any change of ingredients or quantities of ingredients listed in an approved formula shall constitute a different article for which a different approved formula is required by §20.91.

(b) *Exceptions.* A different approved formula is not required for the following—

(1) A change from an ingredient identified in the formula by a brand name to the same quantity of a chemically identical ingredient acquired under a different brand name, or

(2) A change of an ingredient which is a coloring material.

§20.94 Statement of process.

(a) Manufacturers shall submit a statement of process on Form 5150.19, in accordance with paragraph (b) of this section, covering the following activities:

(1) If specially denatured spirits are used for laboratory or mechanical purposes, other than use of S.D.A. Formula No. 3-A, 3-C, or 30 for laboratory or mechanical purposes not in the development of a product;

(2) If specially denatured spirits are used in a manufacturing process in which none of the specially denatured spirits remains in the finished product;

(3) If specially denatured spirits, completely denatured alcohol, or articles are used in a manufacturing process and are to be recovered; or

(4) If recovered denatured spirits are to be redenatured.

(b) The manufacturer shall submit a separate Form 5150.19 for each activity described in paragraph (a) of this section describing the process completely.

§ 20.95

(1) If specially denatured spirits are used for laboratory or mechanical purposes, other than use of S.D.A. Formula No. 3-A, 3-C, or 30 for laboratory or mechanical purposes not in the development of a product, the Form 5150.19 shall identify the formula number of specially denatured spirits, a description of the laboratory or mechanical use, and the approximate annual quantity to be used.

(2) If the Form 5150.19 is submitted covering activities described in paragraphs (a)(2), (a)(3), or (a)(4) of this section, the Form 5150.19 shall also contain the following information:

(i) Flow diagrams shall be submitted with the Form 5150.19 clearly depicting the equipment in its relative operating sequence, with essential connecting pipelines and valves. All major equipment shall be identified as to its use. The direction of flow through the pipelines shall be indicated in the flow diagram. The flow diagram, shall be accompanied by a written description of the flow of materials through the system.

(ii) The statement of process shall describe the chemical composition of the recovered spirits. The statement of process shall be accompanied by a statement of the intended use of the recovered spirits.

§ 20.95 Developmental samples of articles.

(a) A user may use limited quantities of specially denatured spirits in the manufacture of samples of articles for submission on request by the Director in accordance with § 20.92.

(b) A user may prepare developmental samples of articles, of limited sizes and quantities, for one-time shipment to prospective customers. The user shall maintain records showing—

(1) The types of product samples prepared.

(2) The size and number of samples sent, on a one-time basis, to each prospective customer, and

(3) The names and addresses of the prospective customers.

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APPROVAL POLICIES

§ 20.100 General.

(a) In addition to the limitations in this part, and if necessary to protect the revenue or public safety, the Director, when approving Form 5150.19 may:

(1) Specify on the Form 5150.19 the size of containers in which any article may be sold;

(2) Specify the maximum quantity that may be sold to any person at one time; or

(3) Restrict the sale of an article to a specific class of vendee and for a specific use.

(b) Approval by the Director of formulas, samples, or statements of process means only that they meet the standards of the Bureau of Alcohol, Tobacco and Firearms. The approval does not require the regional director (compliance) to issue a permit under subpart D of this part to withdraw and use specially denatured spirits in those formulas, articles, or statements of process.

§ 20.101 Drafting formulas.

(a) In preparing Form 5150.19, the manufacturer shall, for each ingredient containing ethyl alcohol, identify—

(1) The percent alcohol by volume of the ingredient, if known, and

(2) The supplier's name and serial number or approval date of the supplier's approved formula covering the manufacture of the ingredient.

(b) In preparing Form 5150.19, manufacturers may—

(1) Identify ingredients by generic names rather than brand names, and

(2) Identify quantities of ingredients used in ranges rather than in finite quantities.

(c) If ranges of ingredients are used, as authorized by paragraph (b)(2) of this section—

(1) The lower range shall not be zero for any ingredient, and

(2) The range for usage of specially denatured spirits shall not exceed $\pm 5\%$.

§ 20.102 Bay rum, alcoholado, or alcoholado-type toilet waters.

All bay rum, alcoholado, or alcoholado-type toilet waters made with specially denatured alcohol shall contain:

(a) 1.10 grains of benzyldiethyl (2:6-xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS-839)) in each gallon of finished product in addition to any of this material used as a denaturant in the specially denatured alcohol, or

(b) 32 grains of tartar emetic in each gallon of finished product, or

(c) 0.5 avoirdupois ounce of sucrose octaacetate in each gallon of finished product.

§ 20.103 Articles made with S.D.A. Formula No. 39-C.

Each article made with S.D.A. Formula No. 39-C shall contain in each gallon of finished product not less than 2 fluid ounces of perfume material (essential oils, isolates, aromatic chemicals, etc.) satisfactory to the Director.

§ 20.104 Residual alcohol in spirit vinegar.

Commercial strength (40 grain) vinegar made from specially denatured alcohol may contain trace amounts of residual alcohol, not to exceed 0.5 percent of alcohol by volume, in the finished product.

GENERAL-USE FORMULAS

§ 20.111 General.

(a) An approved formula on Form 5150.19 is not required for an article made in accordance with any approved general-use formula prescribed by §§ 20.112 through 20.119, approved by the Director as an alternate method, or published as an ATF Ruling in the ATF Bulletin.

(b) Any interested party may petition ATF for approval of a new general-use formula by submitting a letter describing the proposed general-use formula to the Director.

(Approved by the Office of Management and Budget under control number 1512-0336)

§ 20.112 Special industrial solvents general-use formula.

(a) A special industrial solvent is any article made with any other ingredients combined with the ingredients in the minimum ratios prescribed in this section. A special industrial solvent shall be made with S.D.A. Formula No.

1, 3A, or 3C containing, for every 100 parts (by volume) of alcohol:

(1) No less than 1 part (by volume) of one or any combination of the following: methyl isobutyl ketone, methyl *n*-butyl ketone, nitropropane (mixed isomers), or ethylene glycol monoethyl ether, and

(2) No less than 5 parts (by volume) of one or any combination of the following: ethyl acetate (equivalent to 85% ester content, as defined in § 21.106 of this chapter), isopropyl alcohol, or methyl alcohol.

(b) Special industrial solvents are intended for use as ingredients or solvents in manufacturing processes and shall not be distributed through retail channels for sale as consumer commodities for personal or household use. When a special industrial solvent is used in the manufacture of an article for sale, sufficient ingredients shall be added to definitely change the composition and character of the special industrial solvent. A special industrial solvent shall not be reprocessed into another solvent intended for sale if the other solvent would contain more than 50% alcohol by volume.

(c) If this article contains more than 4% by weight of methyl alcohol, the label shall have a skull and crossed bones symbol and the following words: "danger," "poison," "vapor harmful," "May be fatal or cause blindness if swallowed," and "Cannot be made non-poisonous."

§ 20.113 Proprietary solvents general-use formula.

(a) A proprietary solvent is any article made with any other ingredients combined with the ingredients in the minimum ratios prescribed in this section. A proprietary solvent shall be made with S.D.A. Formula No. 1 or 3-A containing, for every 100 parts (by volume) of alcohol:

(1) No less than 1 part (by volume) of one or any combination of the following: gasoline, unleaded gasoline, heptane, or rubber hydrocarbon solvent, and

(2) No less than 3 parts (by volume) of one or any combination of the following: ethyl acetate (equivalent to 85% ester content, as defined in § 21.106

of this chapter), methyl isobutyl ketone, methyl *n*-butyl ketone, *tert*-butyl alcohol, *sec*-butyl alcohol, nitropropane (mixed isomers), ethylene glycol monoethyl ether, or toluene.

(b) If this article contains more than 4% by weight of methyl alcohol, the label shall have a skull and crossed bones symbol and the following words: “danger,” “poison,” “vapor harmful,” “May be fatal or cause blindness if swallowed,” and “Cannot be made non-poisonous.”

§ 20.114 Tobacco flavor general-use formula.

Tobacco flavor general-use formula is any finished article made with S.D.A. Formula No. 4 or S.D.R. Formula No. 4 which—

- (a) Contains sufficient flavors,
- (b) May contain other ingredients, and
- (c) Is packaged, labeled, and sold or used as a tobacco flavor only.

§ 20.115 Ink general-use formula.

Ink general-use formula is any finished article made with S.D.A. Formula No. 1, 3-A, 3-C, 13-A, 23-A, 30, 32, or 33 which—

- (a) Contains sufficient pigments, dyes, or dyestuffs,
- (b) May contain other ingredients, and
- (c) Is packaged, labeled and sold or used as an ink.

§ 20.116 Low alcohol general-use formula.

Low alcohol general-use formula is a finished article containing not more than 5% alcohol by volume.

§ 20.117 Reagent alcohol general-use formula.

(a) Reagent alcohol is an article (1) made in accordance with paragraph (b) of this section, (2) packaged and labeled in accordance with paragraph (c) of this section, and (3) distributed in accordance with paragraph (d) of this section.

(b) Reagent alcohol shall be made with 95 parts (by volume) of S.D.A. Formula No. 3-A, and 5 part (by volume) of isopropyl alcohol. Water may be added at the time of manufacture. Reagent alcohol shall not contain any

ingredient other than those named in this paragraph.

(c)(1) Except as provided in paragraph (d) of this section, reagent alcohol shall be packaged by the manufacturer in containers not exceeding four liters. Each container shall have affixed to it a label with the following words, as conspicuously as any other words on the labels: “Reagent Alcohol, Specially Denatured Alcohol Formula 3-A-95 parts by vol., and Isopropyl Alcohol—5 parts by vol.”

(2) Because this article contains more than 4% by weight of methyl alcohol, the label shall have a skull and cross-bones symbol and the following words: “danger,” “poison,” “vapor harmful,” “May be fatal or cause blindness if swallowed,” and “Cannot be made non-poisonous

(3) If water is added at the time of manufacture, the label shall reflect the composition of the diluted product. If the addition of water reduces the methyl alcohol concentration to less than 4% by weight, the requirements of paragraph (c)(2) of this section shall not apply.

(4) A back label shall be attached showing the word “ANTIDOTE”, followed by suitable directions for an antidote.

(d)(1) Reagent alcohol may be distributed in containers not exceeding 4 liters exclusively to laboratories or persons who require reagent alcohol for scientific use.

(2) Reagent alcohol may be distributed in bulk containers to proprietors of bona fide laboratory supply houses for packaging and resale, and to any other person who was qualified to receive bulk shipments of reagent alcohol on the effective date of this part. Reagent alcohol may also be distributed in bulk containers to any person who has received approval of a letter-head application containing the following:

- (i) The applicant’s name, address, and permit number, if any;
- (ii) A description of the security measures which will be taken to segregate reagent alcohol from denatured spirits or other alcohol which may be on the same premises;
- (iii) A statement that labels required by paragraph (c) of this section will be

affixed to containers of reagent alcohol filled by the applicant;

(iv) A statement that the applicant will allow ATF Officers to inspect the applicant's premises; and

(v) A statement that the applicant will comply with the requirements of § 20.133 which may be conditions of approval by the regional director (compliance).

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§ 20.118 Rubbing alcohol general-use formula.

(a) Rubbing alcohol is an article made with S.D.A. Formula No. 23-H (1) containing 70% ethyl alcohol by volume (2) made in accordance with one of the two formulas prescribed in paragraph (b) of this section, and (3) labeled in accordance with § 20.134(e) of this part.

(b) Either of the following two formulas is approved for manufacturing rubbing alcohol:

Formula A

S.D.A. formula no. 23-H	103.3 fl. oz.
Sucrose octa-acetate	0.5 av.oz.
Water	q.s. 1 gallon.

(If desired, odororous, medicinal and/or colorative ingredients may be added.)

Formula B

S.D.A. formula no. 23-H	103.3 fl. oz.
Benzyldiethyl (2: 6-xylylcarbamoyl methyl) ammonium benzoate (Bitrex (THS-839)).	0.88 grains.
Water	q.s. 1 gallon.

(If desired, odororous, medicinal and/or colorative ingredients may be added.)

§ 20.119 Toilet preparations containing not less than 10% essential oils general-use formula.

This general-use formula shall consist of an article containing not less than 10% essential oils by volume made with a formula of S.D.A. authorized for that article on the following list:

Article	Product code No.	Formula authorized
Bath preparations	142	1, 3-A, 3-B, 3-C, 23-A, 30, 36, 38-B, 39-B, 39-C, 40, 40-A, 40-B, 40-C.
Colognes	122	38-B, 39, 39-A, 39-B, 39-C, 40, 40-A, 40-B, 40-C.
Deodorants (body)	114	23-A, 38-B, 39-B, 39-C, 40, 40-A, 40-B, 40-C.
Hair and scalp preparations	111	3-B, 23-A, 23-F, 23-H, 37, 38-B, 39, 39-A, 39-B, 39-C, 39-D, 40, 40-A, 40-B, 40-C.
Lotions and creams (body, face, and hand).	113	23-A, 23-H, 31-A, 37, 38-B, 39, 39-B, 39-C, 40, 40-A, 40-B, 40-C.
Perfume materials (processing) ..	121	38-B, 39, 39-B, 39-C, 40, 40-A, 40-B, 40-C.
Perfumes and perfume tinctures	121	38-B, 39, 39-B, 39-C, 40, 40-A, 40-B, 40-C.
Shampoos	141	1, 3-A, 3-B, 3-C, 23-A, 27-B, 31-A, 36, 38-B, 39-A, 39-B, 40, 40-A, 40-B, 40-C.
Soaps, toilet	142	1, 3-A, 3-C, 23-A, 30, 36, 38-B, 39-B, 39-C, 40, 40-A, 40-B, 40-C.
Toilet waters	122	38-B, 39, 39-A, 39-B, 39-C, 40, 40-A, 40-B, 40-C.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

Subpart G—Requirements Relating to Articles

§ 20.131 Scope of subpart.

This subpart prescribes requirements relating to articles which may affect persons who are not required to obtain a permit under this part. These requirements, described in general terms § 20.132, are imposed by law. Criminal penalties imposed for violating these requirements are described in § 20.137. In this subpart, the term "article" means any substance or preparation in the manufacture of which denatured spirits are used, including the product

obtained by further manufacture or by combination with other materials, if the article subjected to further manufacture or combination contained denatured spirits.

§ 20.132 General requirements.

(a) *Internal medicinal preparations and flavoring extracts*—(1) *Manufacture*. No person shall use denatured spirits in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remain in the finished product.

(2) *Sale*. No person shall sell or offer for sale for internal human use any medicinal preparations or flavoring extracts manufactured from denatured distilled spirits where any of the spirits remain in the finished product.

(3) *Labeling and advertising*. Labeling and advertising of articles shall not imply that the article is intended for or suitable for internal human use.

(b) *Beverage use*. No person shall sell or offer for sale any article containing denatured spirits for beverage purposes. Labeling and advertising of articles shall not imply that the article is intended for or suitable for use as a beverage.

(c) *Trafficking in articles*. The regional director (compliance) may impose the requirements of § 20.133 on any person who reprocesses, rebottles, or repackages articles, deals in articles, or receives articles in containers exceeding one gallon.

§ 20.133 Registration of persons trafficking in articles.

(a) Upon written notice from the regional director (compliance), any person who reprocesses, rebottles, or repackages articles, deals in articles, or receives articles in containers exceeding one gallon may be required to submit any of the following:

- (1) Nature of activities to be conducted;
- (2) Name and address of supplier;
- (3) Size and type of containers in which articles will be received and, if applicable, rebottled or repackaged;
- (4) Maximum quantity of each article to be obtained during any calendar month;
- (5) Description of the reprocessing operation;

(6) Samples of the reprocessed article;

(7) Labels and advertising materials; and,

(8) Names and addresses of recipients of articles and quantities received;

(b) The regional director (compliance) shall prohibit any of the activities described in paragraph (a) of this section if the activities pose a jeopardy to the revenue, or a burden in administering this part.

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§ 20.134 Labeling.

(a) *General*. Except as provided in paragraph (b) or (c) of this section, each article shall, before removal from the manufacturer's premises, have a label affixed to its immediate container identifying (1) the name, trade name or brand name of the article, and (2) the name and address (city and State) of the manufacturer or distributor of the article.

(b) *Articles for external human use*. Except as provided in paragraph (c) of this section, an article intended for external human use shall, before removal from the manufacturer's premises, have a label affixed to its immediate container identifying the name, trade name or brand name of the article. If the volume of the article in the container exceeds 8-fluid ounces, the label shall also show the information required by paragraph (b) (1) or (2) of this section.

(1) If the article was packaged or bottled by the person who manufactured it, the label shall identify—

(i) The manufacturer's name and the address (city and State) of the actual place or places where article was manufactured, or

(ii) The name and principal office address (city and State) of the manufacturer, and the permit number or numbers of the place or places of manufacture. However, in lieu of such permit number or numbers, the place or places where the manufacturing operation occurred may be indicated by a coding system. Prior to using a coding system, the manufacturer shall send a notice

explaining the coding system to the regional director (compliance) of the region where the manufacturing site is located, or

(iii) The manufacturer's permit number and the name and address (city and State), of the person for whom the article was packaged and bottled.

(2) If the article was packaged or bottled by a person other than the manufacturer of the article, the label shall identify—

(i) The name and address (city and State) of the person by whom or for whom the article was packaged or bottled, and

(ii) The permit number of the manufacturer or distributor.

(3) If a permit number is required to be shown on the label, it may be shown utilizing a State code number, in accordance with § 20.135.

(c) *Shipment of unlabeled articles.* A manufacturer may, subject to the approval of the regional director (compliance) and compliance with § 20.133, remove an unlabeled article from the manufacturer's premises, if the outer containers of the article are labeled with the name, trade name or brand name of the article and the names and addresses (city and State) of the manufacturer and the consignee.

(d) *Use of the words "denatured alcohol."* If the words "denatured alcohol" appear on the label of an article, the label shall also have a name, trade name or brand name which appears as conspicuously as the words "denatured alcohol."

(e) *Use of the words "rubbing alcohol."* If the words "rubbing alcohol" appear on the label of an article, (1) the article shall be made in accordance with § 20.118 of this part, and (2) the label (i) shall have the words "rubbing alcohol" in letters of the same color and size, (ii) shall identify the name and address (city and State) of the manufacturer or bottler, (iii) shall state the alcohol content as 70% by volume with no reference to the proof strength, and (iv) shall have the warning "For external use only. If taken internally, will cause serious gastric disturbances." An alcohol rub made from any other material, such as isopropyl alcohol, shall not be labeled "Rubbing Alcohol" unless the label informs the consumer that the

preparation was not made with specially denatured alcohol.

(f) *Distributor labeling.* Distributors of an article may place minimal identifying information (name, address and a phrase such as "distributed by") on the label of that article (or on an additional label) without qualifying in any manner under this part; provided:

(1) The article is produced, packaged and labeled as provided in this part; and

(2) The distributor does not produce, repack or reprocess the article.

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[T.D ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by ATF-332, 57 FR 40849, Sept. 8, 1992]

§ 20.135 State code numbers.

In showing the permit number on labels as provided in § 20.134(b)(2)(ii), the permittee who distributes the article may substitute the appropriate number shown below for the State abbreviation. For example, permit number SDA-CONN-1234 may be shown on the labels as SDA-07-1234. The code numbers for the respective State are as follows:

01—Alabama	27—Montana
02—Alaska	28—Nebraska
03—Arizona	29—Nevada
04—Arkansas	30—New Hampshire
05—California	31—New Jersey
06—Colorado	32—New Mexico
07—Connecticut	33—New York
08—Delaware	34—North Carolina
09—DC	35—North Dakota
10—Florida	36—Ohio
11—Georgia	37—Oklahoma
12—Hawaii	38—Oregon
13—Idaho	39—Pennsylvania
14—Illinois	40—Rhode Island
15—Indiana	41—South Carolina
16—Iowa	42—South Dakota
17—Kansas	43—Tennessee
18—Kentucky	44—Texas
19—Louisiana	45—Utah
20—Maine	46—Vermont
21—Maryland	47—Virginia
22—Massachusetts	48—Washington
23—Michigan	49—West Virginia
24—Minnesota	50—Wisconsin
25—Mississippi	51—Wyoming
26—Missouri	

§20.136 Labeling regulations of other agencies.

(a) *General.* Other Federal agencies have promulgated regulations which may affect labeling of articles, as described in this section.

(b) *Consumer Product Safety Commission.* The Consumer Product Safety Commission has promulgated regulations to administer the Federal Hazardous Substances Act. The regulations in 16 CFR Chapter II require warning labels for products containing certain specified substances. For example, S.D.A. Formula Nos. 3-A and 30 require warning labels because they contain methyl alcohol, a hazardous substance at levels of 4% or more by weight. Manufacturers, reproducers, rebottlers, and repackagers who convey articles containing strong chemicals should refer to 16 CFR Chapter II for warning label requirements.

(c) *Federal Trade Commission.* The Federal Trade Commission (F.T.C.) has promulgated regulations to administer the Fair Packaging and Labeling Act. The regulations in 16 CFR Chapter I affect packaging and labeling of "consumer commodities." The term "consumer commodities" generally means products intended for retail sale to an individual for personal or household use. The F.T.C. regulations do not apply to drugs, medical devices, or cosmetics for which the Food and Drug Administration enforces the Fair Packaging and Labeling Act (see paragraph (d) of this section). Manufacturers, reproducers, rebottlers, and repackagers who convey articles which are "consumer commodities" should refer to 16 CFR Chapter I for packaging and labeling requirements.

(d) *Food and Drug Administration, Department of Health and Human Services.* The Food and Drug Administration has promulgated regulations in 21 CFR Chapter I to administer the Fair Packaging and Labeling Act (as it applies to drugs, medical devices, or cosmetics) and the Federal Food, Drug and Cosmetic Act. Manufacturers, reproducers, rebottlers, and repackagers who convey articles which are drugs, medical devices, or cosmetics should refer to 21 CFR Chapter I for packaging and labeling requirements.

§20.137 Penalties.

Violation of the requirements prescribed in §20.132 is punishable by a fine of not more than \$10,000 and/or imprisonment for not more than 5 years for each offense. In addition, persons who manufacture (including reprocess), sell, or transport articles in violation of this part are liable for payment of a tax on the articles at the rate imposed by law on distilled spirits.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended, 1402 (26 U.S.C. 5001, 5607))

Subpart H—Sale and Use of Completely Denatured Alcohol

§20.141 General.

(a) Each formula of completely denatured alcohol may be sold and used for any purpose, subject to the limitations in the formula prescribed in part 21 of this chapter. For example, C.D.A. Formula No. 18 or 19 may be used:

(1) In the manufacture of definite chemical substances where the alcohol is changed into some other chemical substance and does not appear in the finished product;

(2) In the arts and industries, including but not limited to the manufacture of cleaning fluids, detergents, proprietary antifreeze solutions, thinners, lacquers, and brake fluids; and

(3) For fuel, light, and power.

(b) Completely denatured alcohol may not be used in the manufacture of preparations or products for internal human use or consumption where any of the alcohol or the denaturants used in that alcohol remain in the finished product.

(c) Persons distributing and using (but not recovering for reuse) completely denatured alcohol are not required to obtain a permit or file a bond under this part.

(d) Any person recovering completely denatured alcohol for reuse shall obtain a permit under subpart D of this part if the recovered alcohol does not contain all of the original denaturants of the completely denatured alcohol.

(e) Containers of products manufactured with completely denatured alcohol (such as proprietary antifreeze solutions, solvents, thinners, and lacquers) may not be branded as completely denatured alcohol. These products may not be advertised, shipped, sold, or offered for sale as completely denatured alcohol.

§ 20.142 Records of bulk conveyances.

If completely denatured alcohol is to be shipped in a bulk conveyance, the shipment shall be accompanied by a record which identifies each car, truck, or compartment, the name and location (city or town and State) of both the consignor and consignee, the quantity in gallons, and the formula number of the completely denatured alcohol.

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.143 Receipt.

Unless completely denatured alcohol received in bulk conveyances or by pipeline is to be used immediately, it shall be deposited in storage tanks, stored in the tank cars or tank trucks in which received, or drawn into packages which shall be marked or labeled as required by this subpart.

§ 20.144 Packages of completely denatured alcohol.

Packages containing more than 5 gallons of completely denatured alcohol shall be of metal or other equally suitable material approved by the Director. The openings of these packages shall be sealed with appropriate seals furnished by the person filling the packages.

§ 20.145 Encased containers.

Completely denatured alcohol may be packaged by distributors in unlabeled containers which are completely encased in wood, fiberboard, or similar material so that the surface (including the opening) of the actual container is not exposed. When completely denatured spirits are packaged in unlabeled containers, the distributor shall apply the required marks or label to an exposed surface of the case. The case shall be so constructed that the portion containing the marks will be securely attached to the encased con-

tainer until all of the contents have been removed. A statement reading "Do Not Remove Inner Container Until Emptied," or words of similar meaning, shall be placed on the portion of the case bearing the marks.

§ 20.146 Labels on bulk containers.

(a) Completely denatured alcohol in bulk containers with a capacity exceeding 1 gallon shall be labeled on the head or side of the container or on the side of the casing, with the following:

- (1) The name and address of the person filling the containers;
- (2) The contents in gallons;
- (3) The words "Completely Denatured Alcohol"; and
- (4) The formula number.

(b) Packages of 5 gallons or less shall bear labels required by § 20.147, in lieu of the labels required by this section.

(c) The letters and figures used for marking packages shall be large enough to be easily read and, when printed, labeled, or stenciled, shall be in permanent ink and shall contrast distinctly with the background to which applied.

(d) Packages may also be marked with the brand name and a statement to the type of merchandise contained in the package if these markings do not obscure or detract from the required markings. The person filling the packages shall maintain the record required by § 20.261.

§ 20.147 Labels on consumer-size containers.

(a) Each consumer-size container with a capacity of 5 gallons or less of completely denatured alcohol sold or offered for sale by a distributor shall bear a label showing, in plain, legible letters, the following:

- (1) The words "Completely Denatured Alcohol";
- (2) The statement "Caution—contains poisonous ingredients"; and
- (3) The name and address of the distributor filling the packages, unless shown elsewhere on the package.

(b) No other information (except that required by State or Federal law) may be shown on the label without the Director's approval. The word "pure", qualifying denatured alcohol may not appear on the label or the container.

(c) The requirements of paragraphs (a) and (b) of this section apply to any person who sells completely denatured alcohol at wholesale or retail.

§20.148 Manufacture of articles with completely denatured alcohol.

Articles may be made with completely denatured alcohol for sale under brand names. If ingredients are added in sufficient quantities to materially change the composition and character of the completely denatured alcohol, the article is not classified as completely denatured alcohol and may not be marked, branded, or sold as completely denatured alcohol.

§20.149 Records.

Records of transactions in completely denatured alcohol and articles made with completely denatured alcohol shall be maintained as prescribed in § 20.261.

(Approved by the Office of Management and Budget under control number 1512-0337)

Subpart I—Operations by Dealers and Users of Specially Denatured Spirits

OBTAINING SPECIALLY DENATURED SPIRITS

§20.161 Withdrawals under permit.

(a) *General.* The permit, Form 5150.9, issued under subpart D of this part, authorizes a person to withdraw specially denatured spirits from the bonded premises of a distilled spirits plant or a dealer. If the permittee is located in a foreign-trade zone, the permit will be qualified so that the permittee may obtain domestic specially denatured spirits only. The alcohol in domestic denatured spirits must be produced entirely in the United States, including Puerto Rico.

(b) *Photocopying of permit, Form 5150.9.* (1) As provided in §20.54, a permittee may make photocopies of its permit, or amended permit, for the exclusive purpose of furnishing proof of authorization to withdraw specially denatured spirits.

(2) A permittee need only furnish the photocopy of its permit, or amended permit, to a distilled spirits plant or

dealer for the “initial order” from that distilled spirits plant or dealer.

(3) When a permittee makes photocopies of its permit, Form 5150.9, each copy must be signed, dated, and contain the word “COPY” across the face.

(4) A permittee is responsible for obtaining and, as applicable, destroying all photocopies of its permit from distilled spirits plants and dealers when: (i) An amended or corrected permit is issued which supersedes the copy on file, (ii) the permit is canceled by reason of requalification as a new permittee, (iii) the permit is revoked or suspended, or (iv) upon permanent discontinuance of dealing in or using specially denatured spirits.

(c) *Withdrawals.* (1) When a permittee places an initial order for specially denatured spirits the permittee will forward a signed copy of its permit, for retention by the distilled spirits plant or dealer, along with the purchase request.

(2) When the permittee places a subsequent order for specially denatured spirits, the purchase request, in addition to any other information, will contain the permit identification number along with a statement that the permittee possesses a valid permit to withdraw specially denatured spirits, a copy of which is on file with the supplier.

(3) Shipments will not be made by a proprietor of a distilled spirits plant or dealer until it is in possession of a signed copy of a valid permit, Form 5150.9, unless the regional director (compliance) authorizes the shipment.

(19 U.S.C. 81c; Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended, 1395, as amended (26 U.S.C. 5271, 5555))

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985, as amended by T.D. ATF-274, 53 FR 25156, July 5, 1988]

§20.162 Regulation of withdrawals.

(a) Each permittee shall regulate its withdrawals of specially denatured spirits to ensure that (1) the quantity on hand and unaccounted for does not exceed the capacity of the storage facilities, and (2) the cumulative quantity withdrawn or received in any calendar year does not exceed the quantity authorized by the permit, Form 5150.9. Recovered alcohol will be taken

into account in determining the total quantity of alcohol on hand.

(b) For the purpose of this section, specially denatured spirits and recovered alcohol will be considered as unaccounted for if lost under circumstances where a claim for allowance is required by this part and the claim has not been allowed, or if used or disposed of in any manner not provided for in this part.

§20.163 Receipt and storage of specially denatured spirits.

(a) *Receipt of bulk conveyances or by pipeline.* A permittee who receives specially denatured spirits in bulk conveyances or by pipeline shall: (1) Deposit the specially denatured spirits into storage tanks as provided by §20.165; (2) draw the specially denatured spirits into packages marked and labeled as required by paragraph (b) of this section; (3) store the specially denatured spirits in the tank truck or tank car in which received if the conveyance is effectively immobilized within an enclosure secured to prevent unauthorized access; or (4) use the specially denatured spirits immediately in accordance with an approved formula or statement of process.

(b) *Marks on portable containers.* (1) A user who receives specially denatured spirits in bulk conveyances or by pipeline and who transfers the spirits to drums shall plainly label them to show (i) the words "Specially Denatured Alcohol" or "Specially Denatured Rum", and (ii) the formula number.

(2) A dealer who fills packages of specially denatured spirits shall label them in accordance with §20.178.

(c) *Receipt of portable containers.* A permittee who receives specially denatured spirits in portable containers such as drums or barrels shall transfer the specially denatured spirits to storage tanks or deposit the specially denatured spirits in a storeroom as provided in §20.165, or use the spirits in accordance with an approved formula or statement of process. A user may not transfer the spirits to other portable containers for storage except in the following circumstances:

(1) Contents of damaged packages may be transferred to new packages to prevent loss or waste; or

(2) Contents of portable containers may be transferred to "safety" containers to comply with city or State fire code regulations, or on filing notice with the regional director (compliance) to comply with the safety practices of the user. The user shall label the new containers with the information marked on the original containers and shall also identify the new containers as "repackaged."

(d) *Record of receipt.* Records of receipt will consist of the consignor's invoice of bill or lading which identifies the quantities, formula number(s), and serial numbers of containers of specially denatured spirits, and which has been annotated by the consignee with the date of receipt of the shipment.

(e) *Losses.* On receipt of specially denatured spirits, the user shall determine and account for any losses in transit in accordance with subpart J of this part.

(Approved by the Office of Management and Budget under control number 1512-0337)

PREMISES AND EQUIPMENT

§20.164 Premises.

(a) A permittee shall have premises suitable for the business being conducted and adequate for protecting the revenue.

(b) Storage facilities shall be provided on the premises for specially denatured spirits received or recovered. Except as provided in paragraph (c) of this section, storage facilities shall consist of storerooms, compartments, or stationary storage tanks (not necessarily in a room or building).

(c) A permittee receiving and storing specially denatured spirits in tank cars or tank trucks, as provided in §20.163, need not provide stationary storage tanks.

(d) If specially denatured spirits are received at or removed from a permittee's premises in bulk conveyances, suitable facilities for those operations shall be provided.

(e) The regional director (compliance) may require the storage facilities or distilling equipment to be secured with Government locks or seals, or both.

§ 20.165 Storage facilities.

(a) Storerooms shall be constructed and secured to prevent unauthorized access and the entrance doors shall be equipped for locking.

(b) Each stationary tank used for the storage of specially denatured spirits shall be equipped for locking to control access to the denatured spirits. An accurate means of measuring its contents shall be provided for each tank.

(c) Storerooms and storage tanks shall be kept locked when unattended. A storage cabinet or locker kept inside a room which is locked when unattended is considered to be adequately secured.

§ 20.166 Stills and other equipment.

If recovered denatured spirits or articles are to be restored on the permittee's premises, all equipment to be used in the restoration process shall be located on the permit premises. Distilling apparatus or other equipment, including pipelines, for restoration or for recovery, shall be constructed and secured in such a manner as to prevent unauthorized access to the denatured spirits and so arranged as to be readily inspected by ATF officers.

§ 20.167 Recovered and restored denatured spirits tanks.

Suitable storage tanks shall be provided for recovered and restored denatured spirits. Each storage tank for recovered and restored denatured spirits shall be—

- (a) Durably marked to show its capacity and use,
- (b) Equipped for locking to control access to the contents, and
- (c) Provided with an accurate means of measuring its contents.

INVENTORY AND RECORDS

§ 20.170 Physical inventory.

Once in each calendar year and when requested by an ATF officer, each permittee shall perform and record a physical inventory of each formula of new and recovered specially denatured spirits.

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.171 Record of shipment.

(a) *Dealer.* When a dealer transfers new or recovered specially denatured spirits to a distilled spirits plant or permittee in the normal course of business or in accordance with § 20.216 or § 20.231 of this part, the dealer shall prepare a record of shipment in accordance with paragraph (c) of this section. Dealers shall consistently use the same record series for the record of shipment. A dealer's record of shipment shall show a serial number or other unique number.

(b) *User.* When a user transfers new or recovered specially denatured spirits to a distilled spirits plant or permittee in accordance with § 20.216, 20.231, or 20.235 of this part, the user shall prepare a record of shipment in accordance with paragraph (c) of this section.

(c) *Record.* The record of shipment shall consist of an invoice, bill of lading or similar document which shows the following information:

- (1) Date of shipment;
- (2) Consignor's name and address;
- (3) Consignee's name, address, and permit number or distilled spirits plant registry number;
- (4) For each formula of specially denatured spirits—
 - (i) The formula number,
 - (ii) The number and sizes of containers, and
 - (iii) The total quantity; and,
- (5) If the specially denatured spirits are recovered, the word "recovered" shall appear on the record.

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.172 Records.

In addition to the records required by this subpart, permittees shall maintain records required in subpart P of this part.

(Approved by the Office of Management and Budget under control number 1512-0337)

OPERATIONS BY DEALERS

§ 20.175 Shipment for account of another dealer.

(a) A dealer may order specially denatured spirits shipped directly from a denaturer or another dealer to a customer (dealer or user).

(b) The dealer who ordered the shipment of specially denatured spirits shall forward a copy of his or her permit, Form 5150.9, and the consignee's permit, Form 5150.9, to the person actually shipping the specially denatured spirits.

(c) The bond of the dealer who ordered the shipment shall be liable for the tax while the specially denatured spirits are in transit and the bond of the person actually shipping the specially denatured spirits shall not be liable.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§ 20.176 Packaging by a dealer.

A dealer may package specially denatured spirits in containers of any size necessary for the conduct of business. After filling packages, the dealer shall accurately determine the contents of each package. After filling drums, the dealer shall seal all the drum openings with the dealer's own seals. Packages of specially denatured spirits shall be marked or labeled in accordance with § 20.178.

§ 20.177 Encased containers.

(a) A dealer may package specially denatured spirits in unlabeled containers which are completely encased in wood, fiberboard, or similar material. The total surface (including the opening) of the actual container of the spirits must be enclosed.

(b) When specially denatured spirits are packaged in unlabeled containers, the bonded dealer shall apply the required marks to an exposed surface of the case. The case shall be constructed so that the portion bearing the marks will remain securely attached to the encased container until all the spirits have been removed. A statement reading "Do not remove inner container until emptied," or of similar meaning, shall be placed on the portion of the case bearing the marks.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 20.178 Marks and brands on containers of specially denatured spirits.

(a) *Required marks.* Each dealer who fills packages of specially denatured spirits shall mark or label each package with the following information:

(1) Quantity, in gallons, or in liters and gallons;

(2) Package identification number or serial number (see § 20.179);

(3) Name and permit number of the dealer;

(4) The words "Specially Denatured Alcohol" or "Specially Denatured Rum," or an appropriate abbreviation;

(5) Formula number;

(6) Proof, if the spirits were denatured at other than 190° proof;

(7) Denaturants used, if alcohol was denatured under an approved formula authorizing a choice of denaturants; and

(8) Quantity of denaturants used, if the approved formula authorizes a choice of quantities of denaturants.

(b) *Location of marks.* The dealer shall place the required marks on the head of the package or on the side of the case.

(c) *Other marks.* Other marks authorized by this paragraph may not interfere with or detract from the marks required by this subpart. The dealer may place marks other than the required marks on the Government head or Government side of the package if the other marks—

(1) Are authorized by the Director, or

(2) Consist of a brand name, or consist of caution notices, or consist of other material required by Federal or State law or regulations.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§ 20.179 Package identification number or serial number.

(a) *Requirement.* A dealer who fills packages with specially denatured spirits shall mark each package with a package identification number, in accordance with paragraph (b) of this section, or a serial number, in accordance with paragraph (c) of this section.

(b) *Package identification number.* A package identification number shall apply to all of the packages filled at the same time on which all of the marks required by §20.178 (a)(1) and (a)(3) through (a)(8) are identical. All of the packages in one lot shall be the same type, have the same rated capacity, and be uniformly filled with the same quantity. A package identification number shall be derived from the date on which the package is filled, and shall consist of the following elements, in the order shown—

(1) The last two digits of the calendar year;

(2) An alphabetical designation from “A” through “L,” representing January through December, in that order;

(3) The digits corresponding to the day of the month; and

(4) A letter suffix when more than one identical lot is filled into packages during the same day. For successive lots after the first lot, a letter suffix shall be added in alphabetical order, with “A” representing the second lot of the day, “B” representing the third lot of the day, etc. (e.g. the first three lots filled into packages on November 19, 1983, would be identified as “83K19,” “83K19A,” and “83K19B”).

(c) *Serial number.* A consecutive serial number shall be marked on each package, beginning with the number “1” and continuing in regular sequence. The dealer shall use a separate but similar number series for packages containing specially denatured rum. When any numbering series reaches “1,000,000”, the dealer may recommence the series by providing an alphabetical prefix or suffix for each number in the new series.

(d) *Continuation of numbering series.* If a change in proprietorship, name, or trade name occurs, the numbering system in use at the time of the change may be continued. If serial numbers are used at the time of a change, the numbering series in use at the time of the change may be continued.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended (26 U.S.C. 5206))

§20.180 Record of packages filled.

(a) *Requirement to keep record.* A dealer shall keep a record when filling packages with specially denatured spir-

its. The dealer shall keep a separate record of packages for each formula of specially denatured alcohol and specially denatured rum.

(b) *Information to be shown.* The dealer shall show the following information on the record of packages filled—

(1) Date packages filled;

(2) Package identification number and number of packages in each identical lot filled, or the serial numbers;

(3) Kinds of packages;

(4) Wine gallons or liters;

(5) Kind of specially denatured spirits and formula number; and

(6) Proof, if the spirits were denatured at other than 190° proof.

(c) *Filing.* The dealer shall retain the record at the premises and shall file it according to the serial numbers or package identification numbers of the packages.

(Approved by the Office of Management and Budget under control number 1512–0337)

§20.181 Limitations on shipments.

(a) *Shipments made under permit.* A dealer may ship specially denatured spirits to users and other dealers under the consignee's permit, Form 5150.9. The dealer may not ship specially denatured spirits before receiving the consignee's permit, Form 5150.9, unless the shipment has been authorized by the regional director (compliance).

(b) *Shipments of samples.* A dealer may ship samples of specially denatured spirits to the persons authorized to receive them, and in the quantities permitted by subpart O of this part.

§20.182 Bulk shipments.

(a) *Use.* Dealers may ship specially denatured spirits in bulk conveyances. The dealer shall seal the bulk conveyances at the time of filling with railroad or other appropriate serially numbered seals dissimilar in marking from cap seals used by the Bureau of Alcohol, Tobacco and Firearms. Specially denatured alcohol or specially denatured rum from only one consignor may be placed in any one compartment of a bulk conveyance. Not less than the entire contents of any one compartment may be delivered to any one consignee at any one premises.

(b) *Construction of bulk conveyances.* Bulk conveyances shall be constructed

to conform to the following requirements:

(1) All openings (including valves) shall be constructed so that they may be sealed to prevent unauthorized access to the contents of the conveyance. Outlets, valves or other openings to or from tank cars may be constructed in such a manner that they may be closed and securely fastened on the inside.

(2) If the conveyance has two or more compartments, the outlets of each shall be so equipped that delivery of any compartment will not afford access to the contents of any other compartment.

(3) Each compartment shall be arranged so that it can be completely drained.

(4) Each tank car or tank truck shall be permanently and legibly marked with its number, capacity in gallons or liters, and the name or symbol of its owner. If the tank car or truck consists of two or more compartments, each compartment shall be identified and the capacity of each shall be marked thereon.

(5) Permanent facilities must be provided on tank trucks to permit ready examination of manholes or other openings.

(6) Calibrated charts, prepared or certified by recognized authorities or engineers, showing the capacity of each compartment in gallons or liters for each inch of depth, must accompany each tank truck, tank ship, or tank barge.

OPERATIONS BY USERS

§ 20.189 Use of specially denatured spirits.

(a) Specially denatured spirits shall not be used for any purpose not authorized in this section.

(b) Specially denatured spirits shall be used (1) in the manufacture of articles in accordance with the formula requirements of subpart F of this part, (2) for other purposes in accordance with approved statements of process (§ 20.94), or (3) in the case of S.D.A. Formula No. 3-A, 3-C, or 30, for mechanical or laboratory purposes not involving the development of a product.

(c) Each formula of specially denatured spirits may be used only for the

purposes authorized under part 21 of this chapter.

(d) By the use of essential oils and chemicals used in the manufacture of each liquid article, the user shall ensure that the finished article cannot be reclaimed or diverted to beverage use or internal human use.

(e) Each finished article shall conform to the sample, if any, and formula for that article approved by the Director.

§ 20.190 Diversion of articles for internal human use or beverage use.

A regional director (compliance) who has reason to believe that the spirits in any article are being reclaimed or diverted to beverage or internal human use may direct the permittee to modify an approved formula to prevent the reclamation or diversion. The regional director (compliance) may require the permittee to discontinue the use of the formula until it has been modified and again approved.

§ 20.191 Bulk articles.

Users who convey articles in containers exceeding one gallon may provide the recipient with a photocopy of subpart G of this part to ensure compliance with requirements relating to articles. Copies of subpart G are printed as ATF Publication 5150.5 and are available from the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 21153.

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF-249, 52 FR 5961, Feb. 27, 1987]

§ 20.192 Manufacturing record.

For each manufacturing process in which specially denatured spirits are used, the user shall record:

(a) Quantity and formula number of new or recovered specially denatured spirits used;

(b) Names and quantities of ingredients used; and

(c) Name, trade name or brand name and alcoholic content of each article or intermediate product manufactured, as applicable.

(Approved by the Office of Management and Budget under control number 1512-0337)

Subpart J—Losses

§ 20.201 Liability and responsibility of carrier.

(a) A person or carrier transporting specially denatured spirits to a consignee or returning it to the consignor is responsible for the safe delivery and is accountable for any specially denatured spirits not delivered.

(b) A person or carrier transporting specially denatured spirits in violation of any law or regulation pertaining thereto, is subject to all provisions of law relating to alcohol and the payment of tax thereon, and shall be required to pay the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001))

§ 20.202 Losses in transit.

(a) *Reporting losses.* Upon discovering any loss of specially denatured spirits while in transit, the carrier shall immediately inform the consignee, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the consignee's regional director (compliance) of the facts and circumstances relating to the loss.

(b) *Recording losses.* At the time the shipment or report of loss is received, the consignee shall determine the quantity of specially denatured spirits lost. The consignee shall note the quantity lost on the receiving document and attach all relevant information to the record of receipt, prescribed in § 20.163. For the purpose of maintaining the records prescribed in subpart P of this part, receipts of specially denatured spirits will only include the quantity actually received.

(c) *Claims.* A claim for allowances of losses of specially denatured spirits will, as prescribed in § 20.205, be filed:

(1) If the quantity lost in transit exceeds one percent of the total quantity shipped and is more than 10 gallons, the consignee shall file a claim for allowance of the entire quantity lost; or

(2) If the loss was due to theft or other unlawful removal, the consignee shall file a claim for allowance of the entire quantity lost, regardless of the quantity or percentage involved.

(Reporting approved by the Office of Management and Budget under control number 1512-0336; recordkeeping approved by the Office of Management and Budget under control number 1512-0337)

§ 20.203 Losses on premises.

(a) *Recording of losses.* A permittee shall determine and record, in the records prescribed by subpart P of this part, the quantity of specially denatured spirits or recovered alcohol lost on premises:

- (1) When an inventory is taken,
- (2) At the time a container is emptied, or
- (3) Immediately upon the discovery of any loss due to casualty, theft or other unusual causes.

(b) *Claims.* A claim for allowance of specially denatured spirits will be filed as prescribed in § 20.205, in the following circumstances:

(1) If the quantity lost during the annual accounting period (§ 20.263(c)) exceeds one percent of the quantity to be accounted for during that period, and is more than 50 gallons; or,

(2) If the loss was due to theft or unlawful use or removal, the permittee shall file a claim for allowance of losses regardless of the quantity involved.

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.204 Incomplete shipments.

(a) Subject to the provisions of this part (and Part 19 of this chapter for shipments made by a distilled spirits plant), when containers of specially denatured spirits have sustained losses in transit other than by theft, and the shipment will not be delivered to the consignee, the carrier may return the shipment to the shipper.

(b) When specially denatured spirits are returned to the shipper in accordance with this section, the carrier shall inform the shipper, in writing, of the facts and circumstances relating to the loss. In the case of theft, the carrier shall also immediately notify the shipper's regional director (compliance) of the facts and circumstances relating to the loss.

(c) Subject to the limitations for loss prescribed in § 20.202, the dealer or proprietor shall file a claim for allowance

of the entire quantity lost, in the same manner provided in that section. The claim shall include the applicable data required by § 20.205.

§ 20.205 Claims.

Claims for allowance of losses of specially denatured spirits or recovered alcohol will be filed, on Form 2635 (5620.8), with the regional director (compliance) within 30 days from the date the loss is ascertained, and will contain the following information:

(a) Name, address, and permit number of claimant;

(b) Identification and location of the container(s) from which the specially denatured spirits or recovered alcohol was lost, and the quantity lost from each container;

(c) Total quantity of specially denatured spirits or recovered alcohol covered by the claim and the aggregate quantity involved;

(d) Date of loss or discovery, the cause or nature of loss, and all relevant facts, including facts establishing whether the loss occurred as a result of negligence, connivance, collusion, or fraud on the part of any person, employee or agent participating in or responsible for the loss;

(e) Name of carrier where a loss in transit is involved. The carrier's statement regarding the loss, prescribed by § 20.202 or § 20.204, will accompany the claim; and,

(f) Any additional evidence which the regional director (compliance) may require to be submitted in support of the claim.

Subpart K—Recovery of Denatured Alcohol, Specially Denatured Rum, or Articles

§ 20.211 General.

(a) Upon filing the appropriate qualifying documents under the applicable provisions of subparts D and F of this part and receiving approval, a manufacturer using denatured alcohol, specially denatured rum, or articles in an approved process may recover the denatured alcohol, specially denatured rum, or articles. However, a person who recovers (1) completely denatured alcohol with all its original ingredients, (2) an article made with specially

denatured spirits with all its original ingredients (or practically so, to the extent that the presence of the original denaturants and other ingredients in the recovered article make it as non-potable as the original article), or (3) an article made with completely denatured alcohol with all the denaturants of the completely denatured alcohol, shall not be required to obtain a permit under this part.

(b) For a determination as to whether obtaining a permit under this part is necessary, each person who intends to conduct the recovery operations outlined in paragraph (a) of this section shall forward Form 5150.19 with a sample of the recovered article, to the Director, in accordance with subpart F of this part.

(c) Restoration and redenaturation may be done by a permittee or by the proprietor of a distilled spirits plant.

§ 20.212 Deposit in receiving tanks.

All recovered denatured alcohol, specially denatured rum, or articles shall be accumulated (after recovery or restoration is completed) in a receiving tank equipped for locking. If the recovered product is to be shipped under § 20.214, it may be accumulated in appropriately marked packages. All denatured alcohol or specially denatured rum recovered shall be measured and a record of the measurement shall be made before being redenatured or reused. Recovered denatured alcohol or specially denatured rum and new denatured alcohol or specially denatured rum shall be kept in separate storage containers properly marked for identification.

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.213 Reuse of recovered spirits.

(a) If the denatured alcohol or specially denatured rum is recovered in its original denatured state, or practically so, or contains substantial quantities of the original denaturants and other ingredients which make it unfit for beverage or other internal human medicinal use, it may be reused in any approved process without further redenaturation. In these cases, the regional director (compliance) will require samples of the recovered product to be

taken from time to time to determine if the product requires redenaturation.

(b) If the denatured alcohol or specially denatured rum is not recovered in its original denatured state, or practically so, it shall be redenatured at the premises of the manufacturer or a denaturer before being used. The regional director (compliance) may require supervision of the redenaturation of the recovered spirits by an ATF officer.

§ 20.214 Shipment for restoration or redenaturation.

Recovered denatured alcohol, recovered specially denatured rum, or recovered articles requiring restoration or redenaturation (or both, unless the restoration or redenaturation is to be done on the manufacturer's premises) shall be shipped to a distilled spirits plant or to a permittee. Packages shall be numbered with a package identification number or serial number in accordance with § 20.179 (b) or (c). Packages shall be labeled with the name, address, and permit number of the manufacturer, the quantity (in gallons) of spirits contained in the package, and the applicable words "Recovered denatured alcohol formula No. ____" or "Recovered specially denatured rum formula No. ____." If the restoration or redenaturation is performed by a user or dealer permittee (not a distilled spirits plant), the permittee shall return the same materials to the same manufacturer and shall not intermingle them with materials received from other sources.

§ 20.215 Shipment of articles and spirits residues for redistillation.

(a) The proprietor of a distilled spirits plant authorized to produce distilled spirits may receive for redistillation (1) articles manufactured under this part which contain denatured spirits, and (2) spirits residues of manufacturing processes related to the manufacture of these articles.

(b) Any person shipping these articles or spirits residues to a distilled spirits plant for redistillation shall—

- (1) Identify each package or articles or spirits residues as to contents, and
- (2) Mark and serially number each package as provided in § 20.214.

§ 20.216 Record of shipment.

A consignor shipping recovered denatured alcohol, recovered specially denatured rum, or recovered articles to a distilled spirits plant or a permittee shall prepare and forward a record of shipment to the consignee, in accordance with § 20.171.

(Approved by the Office of Management and Budget under control number 1512-0337)

Subpart L—Destruction

§ 20.221 General.

A permittee may terminate liability for payment of tax, prescribed by law, when specially denatured spirits or recovered alcohol are destroyed in accordance with this subpart.

§ 20.222 Destruction.

(a) A permittee who destroys specially denatured spirits or recovered alcohol shall prepare a record which identifies—

- (1) The reason for destruction,
- (2) The date, time, location and manner of destruction,
- (3) The quantity involved and, if applicable, identification of containers, and
- (4) The name of the individual who accomplished or supervised the destruction.

(b) This record of destruction shall be maintained with the records required by subpart P of this part.

(Approved by the Office of Management and Budget under control number 1512-0337)

Subpart M—Return, Reconsignment and Disposition of Specially Denatured Spirits

§ 20.231 Return.

A permittee may, following the receipt of specially denatured spirits and for any legitimate reason, return the specially denatured spirits to any distilled spirits plant or dealer if the consignee consents to the shipment. The consignor shall prepare a record of shipment in accordance with § 20.171.

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.232 Reconsignment in transit.

(a) *Reconsignment.* Specially denatured spirits may be reconsigned to another permittee or returned to the consignor if, prior to or on arrival at the premises of the consignee, the alcohol is determined to be unsuitable for the intended purpose, was shipped in error, or, for any bona fide reason, is not accepted by the consignee or carrier.

(b) *Bond coverage.* In the case of reconsignment, the bond, if required, of the permittee to whom the specially denatured spirits were reconsigned will cover the specially denatured spirits while in transit. In the case of the return of a shipment, the bond, if required, of the consignor will cover the specially denatured spirits while in transit.

(c) *Records of reconsignment.* In the case of reconsignment, the consignor shall cancel the initial record of shipment and prepare a new record of shipment, if the shipment is to another permittee. The new record of shipment will be annotated "Reconsignment."

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.233 Disposition after revocation of permit.

When any permit issued on Form 5150.9 is revoked, all specially denatured spirits in transit and all specially denatured spirits on the former permit premises, may be lawfully possessed by the former permittee for the exclusive purpose of disposing of the specially denatured spirits, for a period of 60 days following the date of revocation. Any specially denatured spirits or recovered alcohol not disposed of within the specific 60-day period, is subject to seizure and forfeiture.

§ 20.234 Disposition on permanent discontinuance of use.

(a) *Specially denatured spirits.* Specially denatured spirits on hand at the time of discontinuance of use, may be disposed of by (1) returning the specially denatured spirits to a distilled spirits plant or dealer, as provided in § 20.231, (2) destruction, as provided in § 20.222, or (3) shipped to another user, as provided in § 20.235.

(b) *Recovered denatured alcohol, recovered specially denatured rum, or recovered articles.* Upon permanent discontinuance of use, a permittee may dispose of recovered denatured alcohol, recovered specially denatured rum, or recovered articles by (1) shipment to a distilled spirits plant, as provided in § 20.215 for articles and spirits residues, (2) destruction, as provided in § 20.222, or (3) upon the filing of an application with the regional director (compliance), any other approved method.

(Approved by the Office of Management and Budget under control number 1512-0336)

§ 20.235 Disposition to another user.

(a) A user may dispose of specially denatured spirits to another permittee or Government agency.

(b) The user shall prepare a record of shipment in accordance with § 20.171. The packages to be shipped shall bear the name and permit number of the user and the marks and labels required under § 20.178. The user's copy of the record of shipment shall include an explanation of the reason for the disposition.

(c) The regional director (compliance) may require a user to apply for and obtain a dealer's permit, if shipments under this section are excessive.

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[T.D ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by ATF-332, 57 FR 40849, Sept. 8, 1992]

Subpart N—Use of Specially Denatured Spirits by the United States or Government Agency**§ 20.241 General.**

The United States or any of its Government agencies may withdraw specially denatured spirits from a distilled spirits plant or dealer under this part, as authorized by 26 U.S.C. 5214(a)(2) and 5271. Before any specially denatured spirits may be withdrawn, a permit to procure the spirits shall be obtained from the Director. Payment of special (occupational) tax and filing of a bond are not required for any Governmental agency of the United States to procure specially denatured spirits.

§ 20.242

(26 U.S.C. 5214, 5271, 5272, 5276)

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985, as amended by T.D. ATF-285, 54 FR 12610, Mar. 28, 1989]

§20.242 Application and permit, Form 5150.33.

(a) All permits previously issued to the United States or any of its Government agencies on Form 1444 shall remain valid and will be regulated by the same provisions of this subpart as it refers to permits on Form 5150.33.

(b) A Government agency shall apply for a permit to obtain specially denatured spirits on Form 5150.33, to the Director. Upon approval, Form 5150.33 will be returned to the Government agency, and will serve as authority to procure specially denatured spirits.

(c) A Government agency may specify on its application for a permit to procure specially denatured spirits, Form 5150.33, that it desires a single permit authorizing all sub-agencies under its control to procure specially denatured spirits; or each Government location (agency, department, bureau, etc.) desiring to procure specially denatured spirits may individually submit an application for a permit on Form 5150.33.

(d) An application for a permit shall be signed by the head of the agency or sub-agency or the incumbent of an office which is authorized by the head of the agency or sub-agency, to sign. Evidence of authorization to sign for the head of the agency or sub-agency shall be furnished with the application.

(e) Specially denatured spirits obtained by Government agencies may not be used for non-Government purposes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1370, as amended (26 U.S.C. 5271))

§20.243 Procurement of specially denatured spirits.

Government agencies shall retain the original permit, Form 5150.33, on file. When placing an initial order with a vendor, the agency shall forward a photocopy of its permit with the purchase order for specially denatured spirits. In the case of an agency holding a single permit for use of other sub-agencies, the photocopy of the permit will contain an attachment listing all other lo-

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cations authorized to procure specially denatured spirits. Any subsequent purchases from the same vendor need only contain the permit number on the purchase order.

§20.244 Receipt of shipment.

On receipt of a shipment of specially denatured spirits, a representative of the Government agency shall inspect the shipment for any loss or deficiency. In the case of loss or deficiency, the agency shall annotate the receiving document and forward a copy to the regional director (compliance) of the region from which the shipment was consigned.

§20.245 Discontinuance of use.

When a Government agency, holding a permit issued under this subpart, no longer intends to procure and use specially denatured spirits, the permit shall be returned to the Director for cancellation. All photocopies of the permit furnished to vendors shall be returned to the agency for destruction.

§20.246 Disposition of specially denatured spirits on discontinuance of use.

At the time of discontinuance of use of specially denatured spirits, a Government agency may dispose of any excess specially denatured spirits (a) to another Government agency holding a permit, (b) by returning the specially denatured spirits to a vendor, or (c) in any manner authorized by the Director. Specially denatured spirits may not be disposed of to the general public.

Subpart O—Samples of Specially Denatured Spirits

§20.251 General.

(a) Applicants and prospective applicants for permits to use specially denatured spirits may obtain samples of specially denatured spirits for experimental purposes or for preparing samples of finished articles for submission on request by the Director. Samples of specially denatured spirits may only be obtained from distilled spirits plants or dealers.

(b) Samples not larger than five gallons per calendar year may be obtained

without a permit. Dealers shall maintain records to ensure that samples of specially denatured spirits dispensed to nonpermittee do not exceed five gallons per calendar year.

(c) Samples larger than five gallons per calendar year may be obtained without a permit as described in § 20.252.

(d) Samples of specially denatured spirits shall not be used to manufacture articles for commercial sale.

(Approved by the Office of Management and Budget under control number 1512-0337)

[T.D. ATF-199, 50 FR 9162, Mar. 6, 1985; 50 FR 20099, May 14, 1985]

§ 20.252 Samples larger than five gallons.

(a) *General.* The regional director (compliance) may waive the requirement to obtain a permit under subpart D of this part if a nonpermittee can demonstrate that more than five gallons is necessary to determine if an Industrial Use Permit is desired.

(b) *Application.* A nonpermittee who wishes to obtain more than five gallons of specially denatured spirits to determine if an Industrial Use Permit is desired, shall file a letterhead application with the regional director (compliance) of the region in which the nonpermittee's premises are located. The letter shall describe why the requested quantity is necessary.

(c) *Approval.* If the letterhead application is approved, the nonpermittee shall submit it to the proprietor of a distilled spirits plant or a dealer with the order for the sample of specially denatured spirits.

(Approved by the Office of Management and Budget under control number 1512-0336)

§ 20.253 Labels for samples.

When a sample of specially denatured spirits is withdrawn from a dealer's premises, that dealer shall attach a label to the sample which shows the following information:

- (a) The word "Sample";
- (b) The dealer's name, address, and permit number;
- (c) The words "Specially Denatured Alcohol" or "Specially Denatured Rum";
- (d) The quantity; and

- (e) The formula number.

Subpart P—Records and Reports

§ 20.261 Records of completely denatured alcohol.

When requested by the regional director (compliance), any person who receives, packages, stores, disposes of, or uses completely denatured alcohol shall keep records of all transactions in completely denatured alcohol which will enable ATF officers to verify and trace receipt, packaging, storage, usage, and disposal of the spirits, and to determine whether there has been compliance with law and regulations. However, on sales in quantities of less than 5 gallons, only the total quantity disposed of daily need be recorded.

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.262 Dealer's records of specially denatured spirits.

(a) Each dealer shall maintain separate records of each formula of new specially denatured spirits—

- (1) Received, as required by § 20.163,
- (2) Packaged, as required by § 20.180,
- (3) Destroyed, as required by § 20.222,
- (4) Lost, as required by §§ 20.202-20.204, and

(5) Transferred to another permittee or a distilled spirits plant, as required by §§ 20.171, 20.216, and 20.231.

(b) Each dealer shall maintain separate records of each formula of recovered specially denatured spirits for each of the transactions listed in paragraphs (a)(1) through (a)(5) of this section.

(c) Once in each calendar year, and when requested by an ATF officer, each dealer shall perform and record a balanced accounting of each formula of new and recovered specially denatured spirits using the records required by § 20.170 and this section.

(d) When requested, the dealer shall submit the accounting required by paragraph (c) of this section to the regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512-0337)

§ 20.263 User's records of specially denatured spirits.

(a) Each user shall maintain separate records of each formula of new specially denatured spirits—

- (1) Received, as required by § 20.163,
- (2) Recovered, as required by § 20.212,
- (3) Used, as required by § 20.192,
- (4) Destroyed, as required by § 20.222,
- (5) Lost, as required by §§ 20.202–20.203, and
- (6) Transferred to another permittee or a distilled spirits plant, as required by §§ 20.216, 20.231, and 20.235.

(b) Each user shall maintain separate records of each formula of recovered specially denatured spirits for each of the transactions listed in paragraphs (a)(1) through (a)(6) of this section.

(c) Once in each calendar year, and when requested by an ATF officer, each user shall perform and record a balanced accounting of each formula of new and recovered specially denatured spirits using the records required by § 20.170 and this section.

(d) When requested, the user shall submit the accounting required by paragraph (c) of this section to the regional director (compliance).

(Approved by the Office of Management and Budget under control number 1512–0337)

§ 20.264 User's records and report of products and processes.

(a) *Records.* (1) Each user shall maintain separate accountings of—

(i) The number of gallons of each formula of new specially denatured spirits used for each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

(ii) The number of gallons of each formula of recovered specially denatured spirits used for each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

(2) Each user who recovers specially denatured spirits shall maintain separate accountings of the number of gallons of each formula of specially denatured spirits recovered from each product or process, recorded by the code number prescribed by § 21.141 of this chapter.

(3) Product or process code numbers are shown on approved formula and statement of process forms. For an article made in accordance with a gen-

eral-use formula, the user will refer to § 21.141 of this chapter and record the applicable product or process code number.

(b) *Report.* Each user shall submit an annual report, Form 5150.18, for the period from July 1 through June 30, summarized from the records required by this section. The report shall be filed no later than July 15 following the end of the accounting period.

(Approved by the Office of Management and Budget under control number 1512–0337)

§ 20.265 Retention of invoices.

(a) Any person required to keep records under this part shall retain copies of invoices which will enable ATF officers to readily obtain the details regarding:

(1) Purchases of all essential oils, chemicals, and other materials used in manufacturing articles, including the name and address of the vendor, and the quantity;

(2) Purchases of articles containing specially denatured spirits for reprocessing, or purchases of those articles for bottling, repackaging, and/or resale, including the name and address of the vendor and the quantity; and

(3) Dispositions of all articles manufactured or received, including in each case the name and address of the person to whom sold or otherwise disposed of.

(b) The regional director (compliance) may, on application filed by the permittee, waive the requirements for retaining invoices if the quantity sold to any person during a calendar month does not exceed 25 gallons, and if a waiver will not hinder the effective administration of this part and will not pose a jeopardy to the revenue.

(Approved by the Office of Management and Budget under control number 1512–0336)

§ 20.266 Time for making entries in records.

Any person who conducts an operation which is required to be recorded under this part, shall enter that operation in the records on the same day on which the operation occurred. However, the daily posting of records may be deferred to conform to the permittee's normal accounting cycle if (a)

supporting or supplemental records are prepared at the time of the operation, and these supporting or supplemental records are to be used to post the daily record, and (b) the deferral of posting does not pose a jeopardy to the revenue.

§20.267 Filing and retaining records.

Any person who is required to maintain records of operations under this part shall file and retain records and copies of reports in the following manner:

(a) Keep on file for a period of not less than 3 years after the date of the report covering the operation, in such a way as to allow inspection by ATF officers, all those records of operations, all supporting or supplemental records, and copies of all reports submitted to the regional director (compliance). However, the regional director (compliance) may require that the records and copies of reports be kept for an additional period, not to exceed 3 years.

(b) File all records and copies of reports at the premises where the operations are conducted.

(c) Make the files of records and copies of reports available to ATF officers during regular business hours for examination.

§20.268 Photographic copies of records.

(a) *General.* Permittees may record, copy, or reproduce required records. Any process may be used which accurately reproduces the original record, and which forms a durable medium for reproducing and preserving the original record.

(b) *Copies of records treated as original records.* Whenever records are reproduced under this section, the reproduced records will be preserved in conveniently accessible files, and provisions will be made for examining, viewing, and using the reproduced records the same as if they were the original record, and they will be treated and considered for all purposes as though they were the original record. All provisions of law and regulations applicable to the original are applicable to the reproduced record. As used in this section, "original record" means the record required by this part to be

maintained or preserved by the permittee, even though it may be an executed duplicate or other copy of the document.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1395, as amended (26 U.S.C. 5555))

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